



UNITED STATES BANKRUPTCY COURT

DISTRICT OF VERMONT

LOCAL BANKRUPTCY RULES

JUNE 21, 2005

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

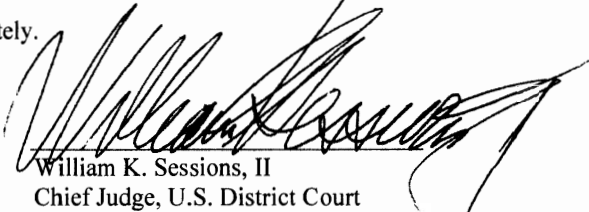
In re:

THE VERMONT LOCAL
BANKRUPTCY RULES

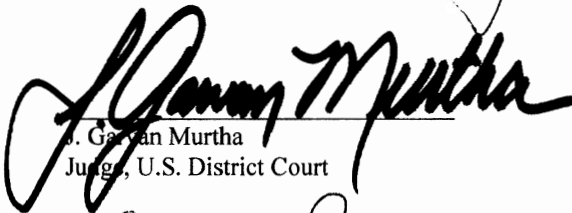
APPROVAL OF LOCAL RULES

Pursuant to Rule 9029(a)(1) of the Federal Rules of Bankruptcy Procedure the attached local rules captioned as Local Rules of Practice and Procedure in the Bankruptcy Court, District of Vermont are hereby approved. They are effective as of this date and may be implemented immediately.


June ², 2005
Burlington, Vermont


William K. Sessions, II
Chief Judge, U.S. District Court

June ⁸, 2005
Brattleboro, Vermont


J. Gervan Murtha
Judge, U.S. District Court

June ¹⁴, 2005
Rutland, Vermont


Colleen A. Brown
U.S. Bankruptcy Judge

For further procedural information, the Clerk's Office may be contacted at

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District of Vermont
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These Vermont Local Bankruptcy Rules and other additional information are also available from the Court's website:

<http://www.vtb.uscourts.gov>

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PART I

Vt. LBR 1002-1. PETITION – GENERAL

- (a) **Electronic Filings; Bringing Original Petition and Schedules to § 341 Meeting.** A petition commencing a case under the Bankruptcy Code may be filed by electronic means through the Case Management/Electronic Case Filing System (hereinafter, “CM/ECF”), in accordance with the requirements set forth in these Local Rules. In lieu of transmitting an original and the required copies of the petition, schedules and statements, a Declaration Regarding Electronic Filing (“Declaration REF”), signed in original by the debtor under penalty of perjury, shall be filed within ten (10) calendar days of the electronic commencement of a case. See Vt. LBR App. A-1; see also Vt. LBR 5003-1(b). A copy of the Notice of Electronic Filing which includes the electronic document stamp shall be attached to the Declaration REF. See Vt. LBR App. A-2. Further, the debtor or the debtor’s attorney shall bring the original, executed petition, schedules, statements and, if applicable, the “Statement of Social Security Number(s)” (a/k/a “Official Form 21” or “Form 21”) to the meeting of creditors held pursuant to 11 U.S.C. § 341 (a/k/a “the § 341 meeting of creditors”). See Vt. LBR 4002-1(a) (providing list of documents a debtor is required to present to the case trustee at the § 341 meeting of creditors).
- (b) **Fax Filings.** The Clerk’s Office will accept facsimile filings transmitted directly to its fax machine to commence a case if accompanied by appropriate credit card authorization. See Vt. LBR 5081-1. The credit card authorization shall be specified on a separate page of the facsimile transmission. The case shall be deemed commenced as of the date and time of filing stamped by the Clerk on the facsimile transmission.
- (c) **Non-Electronic Filings.** If filed on paper, an original and one (1) copy of all petitions filed under Chapters 7, 12, and 13 of the Bankruptcy Code, and an original and three (3) copies of all petitions filed under Chapters 9 and 11 of the Bankruptcy Code shall be filed with the Clerk of the Bankruptcy Court (“the Clerk”). Only an original of the master mailing list is required. The original petition, schedules and statement should not be bound or stapled, but rather should be held together with a paper clip or rubber band; each copy should be stapled. Mailing lists shall not be bound to the individual petition packages, but rather shall be attached by paper clip or rubber band and placed at the end of the original petition, schedules and statements.

Vt. LBR 1005-1. PETITION – CAPTION

- (d) **Payment of Filing Fee by Debtors.** Debtors may not pay the petition filing fee with their own checks or with their own credit cards. See Vt. LBR 5081-1(a).
- (e) **Corporate Resolution/LLC Authority.** A voluntary petition filed by a corporation shall be accompanied by a copy of the corporate resolution or other appropriate authorization, duly attested to, authorizing such filing. A voluntary petition filed by a limited liability company (“LLC”) shall be accompanied by a copy of the appropriate authorization, duly attested to, authorizing such filing. (Note: Neither a corporation nor an LLC may proceed in bankruptcy *pro se*; each must be represented by an attorney.)

Vt. LBR 1003-1. INVOLUNTARY PETITION

Reserved

Vt. LBR 1004-1. PETITION – PARTNERSHIP

Reserved

Vt. LBR 1005-1. PETITION – CAPTION

The caption on the petition, including other names used, must be complete and accurate. All documents filed in the case must contain a caption identical to the caption set forth on the petition. A case filed by an individual debtor shall not show any corporate names in the case caption unless the relationship between the debtor and the corporation is clearly articulated in the caption. Any reference to the debtor’s social security number or other identifying number shall be in redacted form (e.g., for a social security number, only the last four (4) digits should be included, such as: XXX-XX-1234).

Vt. LBR 1006-1. FEES – INSTALLMENT PAYMENTS

Upon order of the Court approving an application, an individual may pay the filing fees in installments. The debtor must make installment payments in the form of cash, money order or bank draft only.

Vt. LBR 1007-1. LISTS, SCHEDULES & STATEMENTS; TIME LIMITS

(a) Schedules of Assets in All Chapters.

- (1) **All Assets to be Disclosed.** The debtor must list all assets in which the debtor has any interest, regardless of where the asset is located, the nature of the debtor’s interest or whether the debtor believes the asset to be within the definition of property of the estate. The debtor must describe all assets with sufficient specificity to allow for easy identification of the assets.

- (2) **Business Inventory or Equipment.** When a stock of goods or business equipment is scheduled, the debtor shall provide an addendum to Schedule B which includes, at a minimum, a general description, a list of present items, a brief explanation of the exact location of the item(s), the name and address of the custodian, the protection being given such property, and the amount and duration of fire and theft insurance, if any.
- (b) **Schedules of Debts in All Chapters.** All schedules of debts filed in conjunction with a petition shall be complete and include the date and nature of the consideration for each debt as required by the official forms. The debtor shall list all debts even if the debtor does not expect all creditors to file proofs of claim.
- (c) **Official Form 21, Statement of Debtor's Social Security Number(s).** When filing a bankruptcy petition electronically, the debtor shall submit a completed and verified Official Form 21, Statement of Debtor's Social Security Number(s) on paper, as required by Bankruptcy Rule 1007(f), and the debtor's attorney shall retain a copy of the submitted Official Form 21 for five (5) years in accordance with Vt. LBR 9011-1(b).
- (d) **Definition of "Submitted".** The term "submitted" as used in Bankruptcy Rule 1007(f) and in these Local Rules means that the document at issue is not considered filed in the case and is not part of the case docket or the public court record.
- (e) **Debtor's Affidavit to be Filed in Chapter 11 Case.** A debtor in a Chapter 11 case shall file an affidavit setting forth:
- (1) in the instance of a case originally filed under Chapter 7, 12, or 13 and subsequently converted to a case under Chapter 11, the name and address of any trustee appointed in the case commenced under Chapter 7, 12, or 13;
 - (2) the names and addresses of the members of any committee organized prior to the order for relief in the Chapter 11 case, and any attorney for such committee, and a brief description of the circumstances surrounding the formation of any committee and the date of its formation;
 - (3) the nature of the debtor's business and a concise statement of the circumstances leading to the debtor's Chapter 11 filing;

Vt. LBR 1007-1. LISTS, SCHEDULES & STATEMENTS; TIME LIMITS

- (4) the number of classes of shares of stock, debentures, or other securities of the debtor that are publicly held, and the number of holders of those interests, listing separately those held by the debtor's officers and directors and the amounts so held;
 - (5) a list of all property of the debtor in the possession or custody of a custodian, public officer, mortgagee, pledgee, assignee of rents, receiver, or secured creditor or the agent of any of these entities, giving the name, address, and telephone number of each and the court, if any, in which a related proceeding is pending;
 - (6) the nature and present status of each action or proceeding pending or threatened against the debtor or its property, including the court and identifying number within that court, and each opposing counsel's name, address and telephone number, except for cases that fit within 11 U.S.C. § 524(g); and
 - (7) a list of all the real estate owned, leased, or held under other arrangements.
- (f) Additional Information Required if a Business Continues Operating.** If the Chapter 11 debtor is continuing the operation of a business, the affidavit required under paragraph (e) above shall also set forth:
- (1) the estimated amount of weekly, bi-weekly, or monthly payroll and reimbursed expenses to employees, officers, and partners or other related individuals for the 30-day period following the filing of the Chapter 11 petition;
 - (2) an estimated schedule of cash receipts and disbursements, in 30-day increments, covering the debtor's business operations for 90 days following the Chapter 11 filing; and
 - (3) proof of all insurance.
- (g) When to File Additional Business Information.** In a voluntary Chapter 11 case, the debtor's affidavit referred to in paragraphs (e) and (f) above shall accompany the petition. In an involuntary Chapter 11 case, the affidavit shall be filed within 15 days after the entry of the order for relief, unless the Court orders otherwise.
- (h) Waiver of Requirements.** On application of the debtor showing that it is impracticable or impossible to furnish some or all of the foregoing information and on notice to the Office of the U.S. Trustee with ten (10)

days to object, the Court may dispense with any of the foregoing requirements.

VT. LBR 1007-2. MAILING LIST

- (a) **Master Mailing List.** The master mailing list shall include all creditors, as well as any federal agencies and officers, and state agencies and officers required to receive notice.

The Clerk maintains a list of the names and addresses of federal entities voluntarily submitted by the entities. This list of addresses may be amended from time to time by the Clerk's Office and is available on the Court's website at <http://www.vtb.uscourts.gov> and at the public counter at the Court.

- (1) The mailing list must include the United States in the following format under the following circumstances:

- (A) in all Chapter 9 and 11 cases and in filings under Chapters 7, 12, or 13 if a tax debt or potential tax claim or interest exists, the following address of the Internal Revenue Service must be included:

Internal Revenue Service
Insolvency Group - Stop 20800
25 New Sudbury St., JFK Federal Bldg.
P.O. Box 9112
Boston, MA 02203-9112

- (B) When a debt, potential claim or interest, other than taxes, exists regarding a federal department, agency or instrumentality, the mailing list must include both: (i) the name and address of the federal department, agency or instrumentality; and (ii) the United States Attorney's Office, using the following address format:

[NAME OF FEDERAL AGENCY]
c/o United States Attorney
11 Elmwood Ave., 3rd Fl.
P.O. Box 570
Burlington, VT 05402-0570

- (C) This rule supplements, but does not replace, Bankruptcy Rule 2002(j).

Vt. LBR 1007-2. MAILING LIST

- (2) When a debt or potential claim or interest exists regarding the State of Vermont, the mailing list must include the following addresses:

- (A) for a tax debt or potential tax claim:

Vermont Department of Taxes
Bankruptcy Unit, 3rd Fl.
109 State St.
P.O. Box 429
Montpelier, VT 05601-0429

- (B) when a debt, potential claim or interest, other than taxes, exists regarding the State of Vermont, the Attorney General for the State of Vermont must be added using the following address format:

[NAME OF STATE AGENCY]
c/o VT Attorney General
109 State St.
Montpelier, VT 05609-1001

- (3) Do NOT include the name and address of the debtor(s) or the attorney for the debtor(s) on the mailing list.

- (b) Additional Mailing List in Cases Filed Under Chapter 9 or 11.** In Chapter 9 or 11 cases, in addition to the master mailing list required by paragraph (a) above, the debtor shall also attach a separate mailing list of the 20 largest unsecured creditors (excluding insiders) containing the names and complete mailing addresses and fax numbers for each of these creditors to ensure prompt noticing of the Creditors' Committee Organizational Meeting. The same procedure will be followed whenever a committee of equity security holders is to be organized.

- (c) Formatting Generally.** Mailing lists must comply with the following guidelines:

- (1) be typed in a font size of no less than 12, using one of the following typefaces: Courier, Times New Roman, Arial, or CG Times;
- (2) be typed in a single column on each page, with margins no less than ¾" and, if on paper, the list must be on plain 8½" x 11" paper;
- (3) be in both uppercase (capital) and lowercase letters;
- (4) limit each name/address block to no more than five (5) lines. The first line must contain the creditor/governmental agency name, with the

remaining lines for the address, and leave a blank line to separate each name/address block from the previous name/address block;

- (5) have no line exceeding 40 characters in length;
- (6) have the nine-digit zip codes typed with a hyphen between the fifth and sixth digits;
- (7) if needed, have any attention lines or account numbers be typed on the second line of the name/address block, and not on the last line. If account numbers are supplied, they should be supplied in redacted format, identifying the last four digits only (e.g., XXXX-XXXX-XXXX-1234); and
- (8) if submitted on paper, be free of staples.

(d) Mailing Lists for Cases Filed Electronically. For cases filed electronically, the master mailing list used to upload creditor information into CM/ECF must:

- (1) comply with the requirements of Vt. LBR 1007-2; and
- (2) be formatted as a text file (*.txt) in ASCII format.

(e) Mailing Lists for Cases Filed Non-Electronically. For cases commenced through non-electronic filing, the master mailing list used to upload creditor information into CM/ECF must:

- (1) comply with the requirements of Vt. LBR 1007-2; and
- (2) be provided on a standard 3½" floppy disk, together with the paper petition, so the Clerk's Office can convert the mailing matrix from electronic format to paper format, unless otherwise ordered by the Court. (Note: After conversion, the Clerk's Office shall erase the data on the floppy disk, and the erased floppy disk will be made available for retrieval by the filer.)

Vt. LBR 1007-3. STATEMENT OF INTENTION

Reserved

Vt. LBR 1008-1. VERIFICATION OF PETITIONS AND ACCOMPANYING PAPERS

Reserved

Vt. LBR 1009-1. AMENDMENTS TO LISTS AND SCHEDULES

- (a) **Amendments Generally.** All amendments must include the case name (as set forth on the petition), case number and chapter. The party filing the amendment shall contemporaneously serve the amendment on the Office of the U.S. Trustee and the case trustee, if any, as well as on any other party entitled to notice.
- (b) **Interlineation.** No amendment by interlineation shall be permitted. The entire page or pages that the amendment affects shall be redrafted with the amendment redlined, underlined, or boxed in, and in such manner that the amended page(s) will be complete without referring to the page or pages that have been amended. (Note: When an amendment is submitted electronically and the submitting party uses the highlight function to indicate the amendment, the party should choose red highlighting (*not* yellow) to ensure the amendment continues to be easily identifiable if printed.)
- (c) **Notification of New Creditors.** The party making the amendment shall serve a copy of the “Notice of Chapter [7, 11, or 13] Bankruptcy Case, Meeting of Creditors, and Deadlines” and the amended list or schedule on any new creditor or party in interest added and on any party or creditor whose claim or address was directly affected by the amendment, and file a certificate of service with the Clerk.
- (d) **Mailing Lists.** If the debtor becomes aware of a changed address for any creditor or party in interest, or determines that it is necessary to add or delete a name and address from a mailing list, the debtor shall amend the mailing list following the procedure in this Rule; the debtor may not amend the mailing list by correspondence. The debtor shall also file a “Notice of Amendment” with the Clerk with the amended mailing list. See Vt. LBR App. J.
- (e) **Correcting Debtor’s Social Security Number.** Where the amendment is necessitated by an error in the debtor’s social security number(s), the party filing the amendment shall follow these procedures:

 - (1) If the error affects only the first five digits of the debtor’s social security number, the debtor shall:

 - (A) submit in paper to the Clerk an “Amended Statement of Social Security Number(s) (Form 21),” reflecting the full and correct social security number;

Vt. LBR 1015-1. JOINT ADMINISTRATION/CONSOLIDATION

- (B) serve upon all creditors, the case trustee, and the Office of the U.S. Trustee the Amended Statement of Social Security Number(s) (Form 21), reflecting the full and correct social security number; and
 - (C) file with the Clerk a completed certificate of service, certifying service of the Amended Statement of Social Security Number(s) (Form 21) upon all creditors, the case trustee, and the Office of the U.S. Trustee. Attach a list of all creditors with their names and addresses, as well as the name and address of the case trustee, to the certificate of service. (Note: The Amended Statement of Social Security Number(s) (Form 21) should not be attached to the certificate of service so that it does not become part of the public record.)
- (2) If the error affects the last four digits of the debtor's social security number, in addition to subparagraphs (1)(A) through (1)(C) above, the debtor must also file with the Clerk an amended petition with the correct last four digits of the social security number.
- (f) **Declarations.** The debtor must file a new Declaration REF with each amendment. See Vt. LBR 5003-1(b); see also Vt. LBR App. A-1.

Vt. LBR 1010-1. PETITION – INVOLUNTARY

Reserved

Vt. LBR 1011-1. RESPONSIVE PLEADING OR MOTION IN INVOLUNTARY AND ANCILARY CASES

Reserved

Vt. LBR 1013-1. HEARING AND DISPOSITION OF A PETITION IN AN INVOLUNTARY CASE

Reserved

Vt. LBR 1014-1. DISMISSAL AND CHANGE OF VENUE

Reserved

Vt. LBR 1015-1. JOINT ADMINISTRATION/CONSOLIDATION

- (a) **Case Filed by Husband and Wife.** A husband and wife commencing a joint case may file a joint petition and pay one filing fee. Married debtors filing jointly shall file joint schedules and a joint statement of financial affairs. If an item on a schedule or statement requires a different response

Vt. LBR 1015-1. JOINT ADMINISTRATION/CONSOLIDATION

from each debtor, the responses shall be labeled “(H)” to designate husband or “(W)” to designate wife. Each asset and liability listed on the schedules or statements of married debtors filing jointly will be considered joint in nature, unless otherwise indicated. In all cases filed by a husband and wife under 11 U.S.C. § 302, the Court will presume joint administration of the case and, in an asset case, the consolidation of the assets and liabilities, which shall be combined in a single pool to pay creditors unless and until a motion is made by a party in interest to terminate the consolidation.

(b) Joint Administration of Related Cases. Unless otherwise ordered by the Court, motions for joint administration shall be presented in each of the subject cases, shall be served on all creditors and parties in interest, and shall designate which of the subject cases the debtors wish to have designated as the lead case.

(1) Clerk’s Duties. Upon the entry of an order of joint administration, the Clerk shall:

- (A) designate one of the cases to be the lead case for purposes of docketing and filing;
- (B) enter the original order of joint administration in the lead case;
- (C) enter the order of joint administration simultaneously on the dockets of all other cases covered by the order; and
- (D) thereafter, maintain only the lead case docket for all activity affecting any of the jointly administered cases, except that the Clerk shall maintain a separate docket for each petition (and any amendments to the petition) and shall maintain a separate claims register for each case.

(2) Mailing List. The party obtaining an order of joint administration shall, within five (5) days of the entry of the order, file with the Clerk a consolidated mailing list constituting a total mailing list of all interested parties in all the jointly administered cases without duplication. The mailing list must be in compliance with the requirements set forth in these Local Rules. See Vt. LBR 1007-2.

(3) Additional Copies. In a Chapter 9 or 11 case, the Clerk may require parties to file additional copies of documents in jointly administered cases.

(c) Substantive Consolidation of Related Cases.

- (1) **Motion.** Unless otherwise ordered by the Court, motions for substantive consolidation shall be presented in each of the subject cases, shall be served on all creditors and parties in interest, and shall designate one of the subject cases as the lead case.
 - (2) **Mailing List.** Prior to the entry of an order of substantive consolidation, the movant shall request copies from the Clerk of the mailing lists for each of the cases affected by the order. The movant shall submit a supplemental, certified mailing list containing only those parties not already included on the mailing list from the main case without duplications or omissions. The mailing list must be in compliance with the requirements set forth in these Local Rules and shall be filed with a proposed order of substantive consolidation no later than five (5) days after entry of the order granting the motion to substantively consolidate.
 - (3) **Caption, Docket Entries, and Filing.** Prior to the entry of an order of substantive consolidation, all papers shall be captioned by their individual titles. Once the cases have been ordered substantively consolidated, they will be treated as one case for all purposes, with a single case number, caption, claims register, and docket.
- (d) **Termination of Consolidation.** Parties seeking to terminate consolidation of cases must file a motion to terminate consolidation:
- (1) in a Chapter 7 asset case, no later than the date of the meeting/hearing scheduled by the Notice of Filing of Final Account of Trustee, and such motion may be heard separately or in conjunction with the approval of the final account;
 - (2) in a Chapter 12 or 13 case, no later than 60 days after the last date for filing a claim, provided that, any creditor who files a claim has 60 days after the claim is timely filed to move to terminate the consolidation; and
 - (3) in a Chapter 11 case, prior to the entry of an order confirming the plan, unless claims are permitted to be filed after confirmation, in which case, the motion shall be filed within the period specified for Chapter 12 or 13 cases.

The motion shall be adjudicated as if a substantive consolidation order had not been entered in the first instance. Termination of consolidation shall apply retroactively, and post-petition acquisitions of the estate allocated

Vt. LBR 1017-1. DISMISSAL

accordingly, to the extent proceedings in the meantime have not rendered that impossible.

Vt. LBR 1015-2. RELATED CASES

Reserved

Vt. LBR 1016-1. DEATH OR INCOMPETENCY OF DEBTOR

Reserved

Vt. LBR 1017-1. DISMISSAL

- (a) **Effect on Related Adversary Proceedings and Contested or Other Matters.** Whenever a bankruptcy case is dismissed, any related adversary proceeding, contested matter or any other pending matter shall likewise be dismissed without prejudice and without further order of the Court, unless the Court orders otherwise. Cases with pending appeals may be dismissed, but the dismissal of the case shall not be deemed to deprive any appellate court of its jurisdiction. A party to an adversary proceeding that is deemed dismissed under this Rule may have the proceeding reinstated upon a motion filed within 30 days of notice of entry of the order dismissing the underlying bankruptcy case, showing that dismissal of the case does not render the adversary proceeding moot.
- (b) **Special Provisions Required in Motions to Dismiss Chapter 13 Cases.** A party filing a motion to dismiss a Chapter 13 case must set forth the status of the debtor's payment of attorney fees to the debtor's attorney or state this information is not available to the movant.
- (1) **When the Debtor is the Movant.** When the debtor is the movant, the motion to dismiss must include:
- (A) the total fee the debtor agreed to pay the attorney for the Chapter 13 case;
 - (B) the amount paid to the attorney to date;
 - (C) the amount the attorney has earned to date; and
 - (D) whether the attorney has agreed to refund any portion of the fee paid to him/her or waive any portion of the unpaid balance upon dismissal of the case.
- (2) **When a Creditor or the Case Trustee is the Movant.** When a creditor or the case trustee is the movant, the motion to dismiss must specify whether the movant seeks to have the debtor's attorney refund a

portion of the fee paid to him/her or waive any portion of the unpaid balance upon dismissal of the case. See also Vt. LBR 2016-2(c).

Vt. LBR 1017-2. CONVERSION

If a Chapter 11 debtor seeks to convert to Chapter 7, the debtor must file an *ex parte* motion affirming that the requirements of 11 U.S.C. § 1112(a) have been met and contemporaneously serve the motion on the Office of the U.S. Trustee. See also Vt. LBR App. I.

Vt. LBR 1019-1. CONVERSION – PROCEDURE FOLLOWING

Reserved

Vt. LBR 1020-1. CHAPTER 11 SMALL BUSINESS CASES – GENERAL

See Vt. LBR 3017-2.

Vt. LBR 1070-1. JURISDICTION

Reserved

Vt. LBR 1071-1. DIVISIONS – BANKRUPTCY COURT

Reserved

Vt. LBR 1072-1. LOCATION OF COURT HEARINGS & WHERE TO FILE PAPERS

- (a) **Hearing Locations.** The Court shall convene hearings in both Rutland, Vermont and Burlington, Vermont at least once each month. Movants shall schedule hearings in the location where the § 341 meeting of creditors is (was) scheduled, unless otherwise agreed between the interested parties or due to exigent circumstances as determined by the Court. All hearing notices shall specify the location of the hearing. See Vt. LBR 9013-2(c)(2).
- (b) **Filing Location.** Except by leave of the Court or under exigent circumstances, to the extent filed non-electronically, any papers filed in connection with a hearing shall be filed with the Clerk in Rutland, Vermont regardless of where the hearing is to be held.

Vt. LBR 1073-1. ASSIGNMENT OF CASES

Reserved

Vt. LBR 1074-1. CORPORATIONS

See Vt. LBR 1002-1(e).

PART II

Vt. LBR 2002-1. NOTICE TO CREDITORS & OTHER INTERESTED PARTIES

- (a) **Duty to Provide Notice.** Unless otherwise directed by these Local Rules, by the Federal Rules of Bankruptcy Procedure (“the Bankruptcy Rules”), or by Title 11 of the United States Code (“the Bankruptcy Code”), the Clerk is authorized to designate the parties who must provide the notice to creditors and parties in interest required under the Bankruptcy Code, the Bankruptcy Rules, and these Local Rules. Unless otherwise specified by the Court, the movant must give at least five (5) days’ notice of any hearing. The movant must file a certificate of service prior to the deadline for the filing of objections. Failure to serve timely and proper notice may result in dismissal of the motion, no action on the motion, and/or an order directing the movant to pay costs if a party is prejudiced by the movant’s failure to serve the motion timely and properly.
- (b) **Chapter 13 Plans.** The Clerk shall give notice of the time fixed for objecting to the proposed plan and any amendment or modification to the plan.
- (c) **Mailing List.** When these Local Rules require or permit notice to be given to creditors and other parties in interest by a party other than the Clerk, upon request by such party, the Clerk shall provide the party with a mailing list.
- (d) **Method of Service.** Notices and documents required to be sent by a party other than the Clerk, shall be served: (1) personally; (2) by e-mail if the recipient has consented to e-mail service; (3) by fax if the recipient has consented to fax service; or (4) by first class mail, postage prepaid. See also Vt. LBR 9013-2(d). In emergency situations, where approved by the Court, notice may also be provided by telephone. See also Vt. LBR App. B, “How to File an Emergency Motion.”
- (e) **Service by Parties Not Yet Registered For CM/ECF.** Parties who are not yet registered users of CM/ECF shall serve the Office of the U.S. Trustee with all notices of motion (setting forth the date of the hearing and the deadline for filing responses, if any), together in the same envelope with the motion, supporting affidavits, exhibits, and a copy of the certificate of service. All *ex parte* applications, accompanied by the required affidavits and exhibits, shall be served upon the Office of the U.S. Trustee contemporaneously with the filing of the documents with the Clerk’s Office. See also Vt. LBR 4002-1(c) (regarding monthly operating reports).

VT. LBR 2002-2. NOTICE TO UNITED STATES OR A FEDERAL AGENCY

- (f) **Forms of Service.** If a motion consists of several documents, the movant shall serve all parties entitled to service of the full motion papers, the motion papers, the exhibits, and the notice of hearing in a single e-mail, a single fax transmission, or a single envelope.
- (g) **Content of Motions.** Motions shall state with particularity the relevant law by section and the relevant procedure by rule upon which the movant relies, shall specify all relief requested, and shall include a brief statement explaining why the relief should be granted. See Vt. LBR 9013-5.

VT. LBR 2002-2. NOTICE TO UNITED STATES OR A FEDERAL AGENCY

See Vt. LBR 1007-2(a)(1).

VT. LBR 2002-3. UNITED STATES AS CREDITOR OR PARTY

Reserved

**VT. LBR 2003-1. MEETING OF CREDITORS & EQUITY SECURITY
HOLDERS**

- (a) **Waiver of Debtor's Appearance.** On motion by or on behalf of a debtor setting forth an adequate showing of exigent circumstances, and with the written consent of the case trustee, the Court may excuse or otherwise waive a debtor's attendance at a duly noticed § 341 meeting of creditors on such terms as approved by the case trustee. This motion does not require a hearing.
- (b) **Documents Required at § 341 Meeting of Creditors.** The debtor or the debtor's attorney shall bring the original, executed petition, schedules and statements to the § 341 meeting of creditors. Failure to do so may result in the debtor and the debtor's attorney being required to appear at subsequent § 341 meetings of creditors. See also Vt. LBR 1002-1(a); Vt. LBR 4002-1(a); Vt. LBR 4002-2.

VT. LBR 2004-1. DEPOSITIONS & EXAMINATIONS

Reserved

VT. LBR 2007-1. TRUSTEES & EXAMINERS (CHAPTER 11)

Reserved

VT. LBR 2010-1. TRUSTEES – BONDS/SURETY

Reserved

Vt. LBR 2014-1. EMPLOYMENT OF PROFESSIONALS

- (a) **Retention Procedure.** Whenever a case trustee or debtor-in-possession employs a professional whose employment requires court approval under the Bankruptcy Code or Bankruptcy Rules, it is the duty of primary counsel for the employing party to ensure that such approval is properly sought and to advise the professional of the requirements and risks, if any, pertaining to the professional's ability to subsequently obtain compensation and reimbursement of expenses from the estate.
- (b) **Applications for Retention.** A professional shall file an application for retention on 15 days' notice to the Office of the U.S. Trustee. All applications for retention, whether made directly by a professional or on behalf of a professional, shall include the professional's name, complete mailing and street addresses, telephone and fax numbers, and e-mail address. The Court shall consider the application ripe for a ruling upon the earlier of: (1) the filing of a response by the Office of the U.S. Trustee; or (2) the expiration of the 15-day notice period. The Court may schedule a hearing on the application if it deems a hearing is necessary.
- (c) **Applications for Compensation.** Where a professional seeks compensation in an amount equal to or less than \$1,000, the professional shall file an application for compensation on 15 days' notice to the Office of the U.S. Trustee. Such applications for compensation, whether made directly by a professional or on behalf of a professional, shall include the professional's name, complete mailing and street addresses, telephone and fax numbers, and e-mail address. The Court shall consider such applications ripe for ruling upon the earlier of: (1) the filing of a response by the Office of the U.S. Trustee; or (2) the expiration of the 15-day notice period. The Court may schedule a hearing on the application if it deems a hearing is necessary. Where a professional seeks compensation in an amount greater than \$1,000, he/she shall follow the procedures described in Bankruptcy Rule 2002(a) and may use the procedures described in Vt. LBR 9013-4(b) and (c). See also Vt. LBR 2016-1.

Vt. LBR 2015-1. TRUSTEES – GENERAL DUTIES

Reserved

**VT. LBR 2015-2. DEBTOR-IN-POSSESSION – CHAPTER 13 INVOLVING
BUSINESS DEBTOR**

Business Operating Orders. Chapter 13 operating orders will not be issued as a matter of course in every Chapter 13 case involving a business debtor. Where the debtor is operating a business and/or where the debtor's primary assets and/or debts are business-related, a business operating order may be issued by the Court on its own initiative, upon a motion by the Chapter 13 case trustee, or upon a motion by any other interested person. A Chapter 13 operating order shall include such terms as the Court deems appropriate in each particular case.

VT. LBR 2015-3. TRUSTEES – REPORTS & DEPOSITIONS OF RECORDS
Reserved

VT. LBR 2015-4. TRUSTEES – CHAPTER 12
Reserved

VT. LBR 2015-5. TRUSTEES – CHAPTER 13
Reserved

VT. LBR 2016-1. COMPENSATION OF PROFESSIONALS

- (a) **Fee Application Guidelines.** Any entity seeking interim or final compensation for professional services or reimbursement of necessary expenses must comply with Bankruptcy Rule 2016, the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, Appendix A to 28 C.F.R. § 58 ("UST Fee Guidelines"), and applicable case law. See also Vt. LBR 2014-1(c); Vt. LBR 6005-1 (regarding auctioneers).
- (b) **Certification Required.** Either the trustee, debtor, or appropriate officer of the debtor must review the fee application of his/her/its professional and must file with the Clerk a certificate supporting or opposing the application before the Court will rule on the application. Where a professional other than one retained by the debtor or the case trustee (e.g., a professional retained by an official or unofficial committee) seeks compensation from the estate, the executive officer or chairperson of the retaining entity shall file a certificate supporting or opposing the application.
- (c) **Retainers.** In either a Chapter 11 or 12 case, no drawing down of, or payment from, a retainer is allowed without a specific order of the Court, notwithstanding any agreements to the contrary between a debtor and his/her/its professionals. Such retainer funds shall be segregated in a

Vt. LBR 2016-1. COMPENSATION OF PROFESSIONALS

separate interest bearing account for the benefit of the debtor to the extent this is consistent with state IOLTA regulations.

- (d) **Requirement to File Fee Applications.** The Court, in its discretion, may order any debtor's attorney to file a fee application in any case pending under the Bankruptcy Code and may direct disgorgement of all or part of the fee if the Court finds the fee to be unreasonable or paid in violation of these Local Rules, the Bankruptcy Code and/or the Bankruptcy Rules.
- (e) **Real Estate Brokers.** If approved in a retention order, a real estate broker may be paid the customary commission at closing, as defined in Vt. LBR 6004-1(a)(4), subject to disgorgement in the event the Court determines either the commission is unreasonable under the particular circumstances of the case or the estate is administratively insolvent.
- (f) **Scope of Duties to be Performed for Flat Fee Charged.** The flat fee charged by a Chapter 7 or 13 debtor's counsel must encompass counsel rendering the following services:

 - (1) In both Chapter 7 and 13 cases:

 - (A) analyzing the financial situation, and advising and assisting the client in determining whether to file a petition under the Bankruptcy Code;
 - (B) preparing and filing the petition, lists, schedules and statements;
 - (C) representing the debtor at the § 341 meeting of creditors;
 - (D) amending lists, schedules, or statements to comport with developments that occurred before or at the § 341 meeting of creditors;
 - (E) preparing and filing motions under 11 U.S.C. § 522(f) to avoid liens on exempt property;
 - (F) preparing and filing motions, such as motions for abandonment or to clear title to real property owned by the debtor;
 - (G) removing garnishments or wage assignments; and
 - (H) compiling and forwarding to the case trustee documents required by Vt. LBR 4002-1;

- (2) In Chapter 7 cases only:
 - (A) negotiating, preparing, and filing reaffirmation agreements; and
 - (B) preparing and filing motions under 11 U.S.C. § 722 to redeem exempt personal property from liens;
- (3) In Chapter 13 cases only:
 - (A) attending confirmation hearings; and
 - (B) negotiating the value of secured claims or presenting evidence about the value of collateral at (or in connection with) the confirmation hearing.
- (4) If a debtor and his/her attorney agree that the performance of the foregoing or other necessary services will require additional fees, this must be disclosed as an attachment or amendment to the required Bankruptcy Rule 2016(b) Statement. Such disclosure must explicitly state the additional charges and the conditions that will or have caused the additional fees to be incurred. This disclosure must be signed by the debtor as evidence of his/her agreement to the additional fees.

Vt. LBR 2016-2. PAYMENT OF CHAPTER 13 ATTORNEY'S FEES

- (a) **Presumed Reasonable Fee in Chapter 13 Case.** A fee of \$1,500 or less shall be presumed reasonable and may be allowed as an administrative expense in a Chapter 13 case unless an objection is filed and sustained or the Court, *sua sponte*, determines otherwise. If the fee sought is over \$1,500, the plan must set forth the reason the higher fee is warranted in the case. Attorneys must maintain time records and be prepared to demonstrate the reasonableness of their fees, regardless of the amount charged.
- (b) **Payment of Debtor's Attorney's Fees in Chapter 13 Case.** Attorney's fees set forth in the Bankruptcy Rule 2016(b) Statement that are not paid in full prior to the filing of the case must be paid through the debtor's plan, and may be paid ahead of other creditors if that treatment is both set forth in the plan and approved by the Court. Any attorney's fees incurred after the initial Bankruptcy Rule 2016(b) Statement must be disclosed promptly in an amended Bankruptcy Rule 2016(b) statement, may be paid only after approval by the Court, and must also be paid through the plan.
- (c) **Duty of Applicant to Move to Modify the Plan.** If an attorney renders services post-petition for which he or she wishes to be compensated, the

Vt. LBR 2090-1. ATTORNEYS – ADMISSION TO PRACTICE

attorney must file a fee application in a form and manner consistent with these rules and must also file a motion to modify the plan to (i) increase the funds being paid to the plan, (ii) extend the term of the plan, (iii) include an alternate funding source, or (iv) diminish the dividend to some creditors, if the funds being paid into the confirmed plan are not sufficient to fund the payment of fees sought.

- (d) **Consideration of Fees at Time of Dismissal.** Any motion to dismiss a Chapter 13 case shall contain a request that the Court consider whether any fees paid, or to be paid, to the debtor’s attorney should be allowed based upon the timing of the dismissal (*i.e.*, pre- or post-confirmation) and the work the attorney has done through the date of the granting of the motion. See also Vt. LBR 1017-1(b).

**Vt. LBR 2017-1. EXAMINATION OF DEBTOR’S TRANSACTIONS WITH
DEBTOR’S ATTORNEY**
Reserved

Vt. LBR 2018-1. INTERVENTION; RIGHT TO BE HEARD
Reserved

Vt. LBR 2019-1. REPRESENTATION OF MULTIPLE PARTIES
Reserved

Vt. LBR 2020-1. U.S. TRUSTEE – REVIEW OF ACTS
Reserved

Vt. LBR 2090-1. ATTORNEYS – ADMISSION TO PRACTICE

- (a) **Admission of Attorneys.** Generally, the District Court Local Rules govern admission of attorneys to the Bankruptcy Court except when inconsistent with these Local Rules. (Note: Therefore, District Court Local Rule 83.2(c) governs the admission of attorneys for the United States to this Court.) However, attorneys shall be required to register for CM/ECF as a pre-requisite to filing papers in this Court, unless, upon motion, the Court waives the registration requirement. See generally Vt. LBR 9011-1.

(b) Admission of Attorneys *Pro Hac Vice*.

- (1) **Application for Admission.** Any attorney who is a member in good standing of the bar of any federal court or of the highest court of any state may apply for *pro hac vice* admission to this Court by fulfilling the following requirements:
 - (A) **Motion.** A member in good standing of the bar of this Court who is actively associated with the applicant in this particular action must move for the applicant's *pro hac vice* admission;
 - (B) **Supporting Affidavit.** The attorney seeking admission (“the applicant”) must attach to the motion an affidavit containing the following information:
 - (i) the applicant’s office address, telephone number, fax number, and e-mail address;
 - (ii) a listing of courts to which the applicant has been admitted to practice and the dates of admission;
 - (iii) a statement that the applicant is in good standing and eligible to practice in those courts;
 - (iv) a statement that the applicant is not currently suspended or disbarred in any jurisdiction;
 - (v) a statement describing the nature and status of any pending disciplinary matters involving the applicant;
 - (vi) an affirmation that the applicant has read the District Court Local Rules and these Local Rules; and
 - (vii) proof that the applicant has registered to use CM/ECF in this or another district with comparable CM/ECF training, or a statement that the applicant shall complete CM/ECF training and be registered within 30 days of the Court granting *pro hac vice* admission and that the movant shall effectuate electronic filings until the applicant is so registered;
 - (C) **Fee.** The current rate established for the fee shall be paid to “Clerk, U.S. District Court” and must accompany the motion. The fee is non-refundable. The Clerk shall waive the admission fee for admission of federal government counsel.

- (2) **Revocation.** The Court may revoke *pro hac vice* admission for good cause at any time without a hearing.
- (3) **Local Counsel.** Unless excused by the Court for good cause, an attorney admitted *pro hac vice* must remain at all times associated in the action with a member of the bar of this Court upon whom all process, notices, and other papers must be served, who must sign all filings, and whose attendance is required at all hearings.
- (4) **Noncompliance.** An attorney who is not admitted may file papers before admission *pro hac vice*, but the time period for filing the responsive pleading does not commence until the appearance of associated local counsel is filed.
- (5) **Pro Hac Vice Admission for State Government Counsel.** A state government attorney who desires to appear in a case before this Court may apply for admission under this provision.
- (6) **Waiver.** *Pro hac vice* admission is not required for an attorney to file a motion for relief from stay under 11 U.S.C. § 362 or to file a proof of claim. To the extent litigation is necessary for a determination of a motion for relief from stay or a proof of claim, *pro hac vice* admission is required.

(c) Interns and Law Clerks.

- (1) **Requirements to Appear.** An eligible law student intern or graduate of an approved law school may appear on behalf of a party if he or she:
 - (A) registers as a law clerk under the requirements of the Vermont Supreme Court's Rules on Admission to the bar;
 - (B) is under the supervision of a member of the bar of this Court; and
 - (C) has written consent from the party being represented.
- (2) **Supervising Attorney.** The attorney who supervises an intern or law clerk must:
 - (A) be a member of the bar of the United States Bankruptcy Court for the District of Vermont;
 - (B) assume professional responsibility for the intern's or law clerk's work;

- (C) assist the intern or law clerk to the extent necessary;
 - (D) introduce the intern or law clerk to the Court at his/her first appearance and appear with him/her at all subsequent court appearances unless the Court waives the supervisor's presence;
 - (E) file a written agreement to supervise the intern or law clerk under these Local Rules; and
 - (F) notify the Court in writing when the intern's or law clerk's eligibility has terminated under the provisions of subparagraph (6) below.
- (3) **Law Student Intern Requirements.** To appear pursuant to these Local Rules, the law student intern must:
- (A) be enrolled in good standing at a law school approved by the American Bar Association;
 - (B) have completed legal studies amounting to at least two (2) semesters of credit, or the equivalent, in a law school approved by the American Bar Association; and
 - (C) not be employed or compensated by a client. (Note: This Rule does not prevent an attorney, legal aid bureau, law school, public defender, or other agency from compensating a law student intern.)
- (4) **Law Clerk Requirements.** To appear pursuant to these Local Rules, a law clerk must:
- (A) be a graduate of a law school approved by the American Bar Association and be in the process of completing the clerkship requirements of the Vermont Supreme Court's Rules on Admission to the bar; or
 - (B) have completed legal clerkship and studies amounting to at least three (3) years pursuant to the Vermont Supreme Court's Rules on Admission to the bar under the supervision of a member in good standing of the bar of the State of Vermont; and
 - (C) not be employed or compensated by a client. (Note: However, this Rule does not prevent an attorney, legal aid bureau, law school, public defender, or other agency from compensating a law clerk.)

Vt. LBR 2090-2. ATTORNEYS – DISCIPLINE & DISBARMENT

- (5) **Eligible Duties.** The law student intern or law clerk supervised in accordance with these Local Rules may:
- (A) appear as counsel in Court or at other proceedings upon the filing of the written consent of the client and supervising attorney referred to above at paragraphs (c)(1) and (2), and upon the Court's approval of the intern's or law clerk's request to appear; and
 - (B) prepare and sign motions, petitions, answers, briefs, and other documents in connection with any matter in which he/she has met the conditions of subparagraph (5)(A) above. However, each filed document must also be signed by the supervising attorney.
- (6) **One-Year Limit.** A law clerk approved to appear under these Local Rules is not eligible for that approval for more than one (1) year after he or she has graduated from an approved law school or pursued legal studies for four (4) years in Vermont under the supervision of a practicing Vermont attorney as required by the Vermont Supreme Court's Rules of Admission to the bar.

Vt. LBR 2090-2. ATTORNEYS – DISCIPLINE & DISBARMENT

This Court shall enforce the disciplinary rules set forth in LR 83.2(d) of the District Court Local Rules when circumstances warrant discipline in this Court.

Vt. LBR 2091-1. ATTORNEYS – WITHDRAWALS

- (a) **Withdrawal of Attorney for the Debtor.** An attorney who has appeared as attorney of record for a debtor may withdraw only upon order of the Court. No order of withdrawal will be issued without a hearing. An order granting withdrawal of debtor's attorney shall be served on all other parties in the case and/or proceeding in the same manner as is set forth in paragraph (c) below.
- (b) **Substitution of Attorney for the Debtor.** An order allowing a substitution of attorney for the debtor may be issued without a hearing only if a stipulation or substitution of counsel agreement (with the signature of the debtor, the withdrawing attorney, and the substituting attorney) is filed with the application for withdrawal. An order granting the substitution shall be served on all other parties in the case and/or proceeding in the same manner as is set forth in paragraph (c) below. An attorney commencing employment in the case as substitute counsel shall file a Bankruptcy Rule 2016(b) Statement and otherwise fully comply with Vt. LBR 2016-1 and these Local Rules.

- (c) **Withdrawal or Substitution of Other Attorneys.** Notice of withdrawal or substitution of attorneys other than debtor's counsel shall be deemed effective upon filing with the Clerk and shall be served upon all parties in the case or the proceeding, the case trustee, and the Office of the U.S. Trustee. (Note: This Rule does not apply to an attorney who has appeared solely for the purpose of filing a proof of claim or a motion for relief from stay under 11 U.S.C. § 362.)

PART III

VT. LBR 3001-1. CLAIMS AND EQUITY SECURITY INTERESTS – GENERAL

No Asset Cases. Every Chapter 7 case will be treated as a “No Asset Case” unless and until the case trustee files a “Notice of Asset Case.” Upon the case trustee’s filing of an asset notice, the Court will set a deadline for filing claims and issue a “Notice to File Claims” as required by Bankruptcy Rule 2002(f). Proofs of claim filed in Chapter 7 cases not designated as asset cases shall be accepted by the Clerk for filing, but no action will be taken upon them at that time.

VT. LBR 3006-1. CLAIMS – WITHDRAWALS *Reserved*

VT. LBR 3007-1. CLAIMS – OBJECTIONS

- (a) **Generally.** Each objection to claim must include a copy of the subject proof of claim as an exhibit.
- (b) **Objections to Claims in Chapter 12 and 13 Cases.** In a Chapter 12 or 13 case, the case trustee, debtor, or any party in interest, may file an objection to the allowance of a claim. The objection may be directed at either the entire claim or only a portion of the claim and may address either the amount or nature of the claim. Unless otherwise ordered by the Court, the objection to a timely filed claim must be filed within 60 days after the entry of the confirmation order or within 60 days after the governmental claims bar date, whichever is later. Nothing herein shall confer standing on any party that does not otherwise have standing.
- (c) **Objections to Claims in Chapter 11 Cases.** Any objection to a claim in a Chapter 11 case shall be filed and served prior to the hearing held to consider and approve a disclosure statement, unless otherwise ordered by the Court.

VT. LBR 3012-1. VALUATION OF COLLATERAL

VT. LBR 3008-1. CLAIMS – RECONSIDERATION

Reserved

VT. LBR 3009-1. DIVIDENDS – CHAPTER 7

Reserved

VT. LBR 3010-1. DIVIDENDS – SMALL

Reserved

VT. LBR 3011-1. UNCLAIMED FUNDS

Reserved

VT. LBR 3012-1. VALUATION OF COLLATERAL

Valuation of Motor Vehicles. The valuation of motor vehicle collateral shall be presumed to be the midpoint between the National Automobile Dealers Association (“NADA”) wholesale value and the NADA retail value unless: (1) the parties agree to a different value; (2) the debtor or secured creditor presents an appraisal undisputed by the other party; or (3) the value is fixed by the Court as a result of an evidentiary hearing held specifically to determine the value of the particular vehicle.

**VT. LBR 3013-1. CLASSIFICATION OF CLAIMS AND INTERESTS –
CHAPTER 12**

Secured and Priority Claims. The Chapter 12 trustee shall pay all secured and priority claims the amount indicated in the proof of claim unless either the creditor affirmatively consents to a different treatment or an objection to the claim is filed and sustained. Where no proof of claim for a secured or priority debt is filed, the Chapter 12 trustee shall pay the amount provided in the plan.

**VT. LBR 3013-2. CLASSIFICATION OF CLAIMS AND INTERESTS –
CHAPTER 13**

Secured and Priority Claims. The Chapter 13 trustee shall pay all secured and priority claims the amount indicated in the proof of claim unless either the creditor affirmatively consents to a different treatment or an objection to the claim is filed and sustained. Where no proof of claim for a secured or priority debt is filed, the Chapter 13 trustee shall pay the amount provided in the plan.

VT. LBR 3015-1. CHAPTER 13 – PLAN

(a) Mandatory Fee Disclosure and Payment Through the Plan. Any unpaid debtor’s attorney’s fee must be disclosed and provided for in a Chapter 13

plan or an amendment to the plan, as well as in the Bankruptcy Rule 2016(b) Statement, and must be paid through the plan. All fees incurred by the debtor's attorney during the pendency of a Chapter 13 case must be disclosed in an Amended Bankruptcy Rule 2016(b) Statement, approved by the Court, and paid through the plan. See also Vt. LBR 2016-2.

(b) Content of Plans. All plans, regardless of format, shall clearly and conspicuously specify:

- (1) the amount of the monthly payment;
- (2) the source of the payment (e.g., wage deduction, automatic withdrawal or direct payment);
- (3) the term (in months) of the plan;
- (4) the total amount of all plan payments, including any lump sum payments;
- (5) if property is to be sold to fund all or part of the payments to be made under the plan, the plan shall specify the nature and location of the property, the timeframe within which the property will be sold, how the property will be sold, and the estimated proceeds and projected distribution of proceeds from the sale;
- (6) the total to be paid to each secured creditor, including the amount of interest paid and the interest rate applicable to each secured claim;
- (7) the total amount to be paid to each priority creditor;
- (8) the total amount to be paid pro-rata to the unsecured creditors and the estimated percentage dividend;
- (9) any liens to be avoided (including each lien holder's name, the nature of each lien, and the balance due on each lien as of the Chapter 13 filing date);
- (10) when property reverts in the debtor;
- (11) any executory contract to be assumed and upon what terms assumption will take place, and
- (12) any litigation to be commenced to effectuate the plan, including the name of the defendant(s), date by which the suit or motion will be

VT. LBR 3015-2. CHAPTER 13 – CONFIRMATION

filed, the nature of the suit or motion, the projected recovery and projected disposition of recovery.

To the extent that the Court adopts a model plan, all plans filed in this Court shall be in substantial compliance with the model plan.

- (c) **Pre-Petition Debts.** All pre-petition debts must be treated in the plan, regardless of the preference of any particular creditor.
- (d) **Payment of Secured Claims.** When required by applicable bankruptcy law, secured claims must be paid with interest unless a creditor affirmatively consents to payment without interest. Unless the parties agree otherwise, the trustee shall recommend and the Court shall set the risk factor in each case. The trustee shall compute the interest rate to be applied if the debtor has not properly done so. Treatment of each secured claim, including the interest rate to be paid on the claim, shall be clearly specified in both the plan and the confirmation order.
- (e) **Payment of Undersecured Claims.** Undersecured claims shall be bifurcated. Each such claim shall be allowed as a secured claim to the extent of the value of the collateral. The balance of the allowed claim shall be an unsecured claim and included in the computation of the dividend to general unsecured creditors. The bifurcated treatment of undersecured claims shall be clearly specified in the plan and confirmation order. A lien on an undersecured claim shall be released by the creditor promptly upon the payment of the secured portion of the claim to the extent this treatment is conspicuously set forth in the plan (*i.e.*, the plan identifies the secured creditor by name and specifies the amount of the allowed secured claim) **and** the plan is confirmed. *See, e.g., In re Rheaume*, 296 B.R. 313 (Bankr. D. Vt. 2003), *also available at* <http://www.vtb.uscourts.gov>.
- (f) **Payment of Short-Term Secured Debts.** Short-term secured debts (*e.g.*, automobile loans, equipment loans, rent-to-own “leases”) may be paid through the plan applying the general rules for payment of secured claims set forth above provided the holder of the short-term secured claim has notice of the treatment and either has not objected to such treatment or has had its objection overruled.

VT. LBR 3015-2. CHAPTER 13 – CONFIRMATION

- (a) **Objections.** Parties are encouraged to submit objections to the confirmation of a Chapter 13 plan in writing. Objections must specify the grounds for the objection whether presented in writing or orally. If in writing, the objection must be filed with the Clerk and served on the

VT. LBR 3015-3. EXTENDING CHAPTER 13 PLAN PAYMENTS BEYOND 36 MONTHS

Chapter 13 trustee, the debtor, and the debtor's attorney at least three (3) days prior to the date set for the confirmation hearing.

- (b) **Attendance at Confirmation Hearing.** Absent exigent circumstances and a prior order of the Court, the debtor and the debtor's attorney, if any, are required to attend the confirmation hearing. Debtors must be in the courtroom promptly at the commencement of the confirmation hearing calendar. A debtor's failure to attend the confirmation hearing is grounds for dismissal of the case.

- (c) **Filings to be Considered in Connection with the Confirmation Hearing.**

Unless the information necessary to file a document was not available prior to the § 341 meeting of creditors, no document filed later than two (2) business days before the confirmation hearing will be considered by the Court in connection with the confirmation hearing; such a document shall be considered a tardy filing and the confirmation hearing shall proceed as if that document had not been filed. Thus, for example, the filing of objections or amended plans as late as the day of the confirmation hearing, where the relevant information for such documents was first disclosed at or after the § 341 meeting of creditors on the day of the confirmation hearing, will be considered by the Court (even though filed less than two (2) business days before the confirmation hearing). Conversely, where other documents that could have been filed at least two (2) business days before the confirmation hearing (because their filings were not dependent on the § 341 meeting of creditors), were not filed in a timely fashion, the Court will not consider them in connection with the confirmation hearing. Any party making a tardy filing shall appear at the hearing on the matter unless, for good cause shown and in its discretion, the Court waives the appearance of the party who made the tardy filing.

VT. LBR 3015-3. EXTENDING CHAPTER 13 PLAN PAYMENTS BEYOND 36 MONTHS

Chapter 13 plans may be extended beyond 36 months pursuant to a clear and specific provision of the plan. Requesting a plan term of longer than 36 months does not require a separate motion. Rather, upon a showing of good cause, the Court may approve the requested extended term in the confirmation order.

VT. LBR 3015-4. CHAPTER 13 – MOTIONS TO MODIFY CHAPTER 13 PLANS

- (a) **Modification of a Confirmed Chapter 13 Plan.** A debtor, trustee, or holder of an allowed unsecured claim may move to modify a confirmed plan

Vt. LBR 3017-2. CHAPTER 11 – SMALL BUSINESS CASES

at any time after confirmation of the plan, but before the completion of payments under the plan. A Court order is required to modify a confirmed plan.

(b) Content of a Motion to Modify Plan. A motion to modify a confirmed Chapter 13 plan shall clearly set forth:

- (1) the proposed modification(s) and the reason(s) for the modification(s);
- (2) the creditors affected by the proposed modification;
- (3) the creditors *not* affected by the proposed modification;
- (4) where the movant is the debtor, whether the debtor's attorney is seeking additional fees and, if so, the amount of additional fees so that the Court can make a determination as to the reasonableness of the fees; and
- (5) whether the proposed plan complies with 11 U.S.C. § 1329.

(c) Additional Requirements. Where the movant is the debtor, he/she shall also file a proposed modified plan with all new, changed and/or deleted terms conspicuously identified by redlining, bolding, striking out, etc. The proposed modified plan shall be served on the case trustee and all affected creditors together with the debtor's motion to modify.

Vt. LBR 3016-1. CHAPTER 11 – PLAN

Reserved

Vt. LBR 3016-2. DISCLOSURE STATEMENT – GENERAL

Reserved

Vt. LBR 3017-1. DISCLOSURE STATEMENT – APPROVAL

Reserved

Vt. LBR 3017-2. CHAPTER 11 – SMALL BUSINESS CASES

(a) Designation of a Chapter 11 Small Business Case.

- (1) Upon motion made by any party at any time, the Court may order that a Chapter 11 case be designated as a "small business case" (f/k/a "a Chapter 11(a) case") pursuant to 11 U.S.C. § 101(51C) or other good cause and, therefore, be designated for accelerated treatment;

- (2) Any party in interest or the Office of the U.S. Trustee may, at any time, file a motion requesting that the Court rescind a Chapter 11 small business case designation;
- (3) The Court, for good cause, may at any time, with or without motion or notice, order that a Chapter 11 small business designation be rescinded.

(b) Time for Filing a Chapter 11 Small Business Case Plan and Disclosure Statement.

- (1) Unless the Court for good cause orders otherwise, the plan and disclosure statement in a Chapter 11 small business case shall be filed by the earlier of 60 days after the small business case designation is ordered or 120 days after the case was filed;
- (2) The Court may at any time, for good cause, with or without motion or notice, reduce or extend any time fixed under subparagraph (1) above for the filing of a plan and disclosure statement;
- (3) A debtor's failure to file a disclosure statement and plan within the time fixed by the Court under subparagraphs (1) or (2) above, or the debtor's failure to obtain approval of a disclosure statement pursuant to paragraph (c)(1) below, shall constitute cause for dismissal or conversion to Chapter 7 pursuant to 11 U.S.C. § 1112(b)(4).

(c) Conditional Approval of Chapter 11 Small Business Case Disclosure Statement, Objections, and Hearing.

- (1) The Court may, without notice or a hearing, consider, and enter an order conditionally approving, a Chapter 11 small business case disclosure statement;
- (2) After the Court grants conditional approval of a Chapter 11 small business case disclosure statement, the debtor shall transmit the conditionally approved disclosure statement with the order conditionally approving it, and the proposed plan to parties in interest and use the conditionally approved disclosure statement to solicit acceptances or rejections of the plan. The Chapter 11 small business case disclosure statement must state that the approval is conditional, state the deadline for filing objections, and disclose that any party in interest may file a timely objection under 11 U.S.C. § 1125;
- (3) An objection to a Chapter 11 small business case disclosure statement shall specify the grounds for the objection. The objection shall be filed

Vt. LBR 3018-1. BALLOTS

with the Clerk and served on the debtor, the trustee (if any), the Office of the U.S. Trustee, any committee appointed under the Bankruptcy Code, and any other entity designated by the Court. Filing and service shall be at least ten (10) days before the final hearing on the small business case disclosure statement and plan confirmation, or by such other date as the Court may fix. Objections and requests to modify a Chapter 11 small business case disclosure statement will be considered at the confirmation hearing;

- (4) If no objections or requests to modify the Chapter 11 small business case disclosure statement are filed by the objection deadline, conditional approval shall become final unless the Court orders otherwise.

(d) 11 U.S.C. § 1111(b) Election in a Chapter 11 Case. A class of secured creditors may make an election under 11 U.S.C. § 1111(b) no later than ten (10) days before the confirmation hearing, unless a different date is set by the Court.

(e) Disposable Cash Income in Chapter 11 Small Business Cases. At the confirmation hearing, the plan proponent must disclose and offer evidence of sufficient cash flow to fund the plan for three (3) years or the life of the plan, whichever is less.

Vt. LBR 3018-1. BALLOTS

The plan proponent must place the corresponding mailing list label on each blank ballot for each party to which a ballot is issued. Completed ballots are to be forwarded to the plan proponent or its designee and should *not* be sent to the Clerk.

Vt. LBR 3018-2. ACCEPTANCE/REJECTION OF PLANS

Pre-Filing Solicitation. A summary of all plan acceptances or rejections solicited before the commencement of a case shall be filed with the Clerk and accompanied by copies of all materials used in soliciting acceptances or rejections. This summary shall be filed with the petition. On request of a party in interest or the Office of the U.S. Trustee, the Court shall hold a hearing to determine if the requirements of 11 U.S.C. § 1126(b) have been met.

**Vt. LBR 3018-3. CERTIFICATION OF ACCEPTANCE AND REJECTION OF
CHAPTER 11 PLANS**

A Chapter 11 plan proponent shall file with the Clerk a summary report of all voted ballots certifying the amount and number of allowed claims of each class accepting or rejecting the plan, and the amount of allowed interests of each class accepting or rejecting the plan (hereinafter, “the summary ballot report and certification”) in a form that substantially complies with Appendix C. The plan proponent shall also serve a copy of the summary report and certification on the debtor-in-possession, the trustee (if any), the Office of the U.S. Trustee, and any committee, to be filed and received not less than three (3) days before the hearing. The Court, debtor-in-possession, trustee (if any), and/or the Office of the U.S. Trustee may request copies of the voted ballots received by the plan proponent, and, upon request, such ballots shall be provided. The Court may find that the plan has been accepted or rejected on the basis of the summary ballot report and certification. The hearing on confirmation shall not commence unless the summary ballot report and certification has been timely filed, unless for good cause the Court directs otherwise.

Vt. LBR 3019-1. CHAPTER 11 – MODIFICATIONS TO PLANS
Reserved

Vt. LBR 3020-1. CHAPTER 11 – CONFIRMATION

- (a) **Confirmation Requirements.** The plan proponent has the burden of proof at the confirmation hearing. At least three (3) days before the confirmation hearing, the plan proponent shall file the following with the Clerk:
- (1) the summary ballot report and certification of the plan in substantially the same form as “Summary Ballot Report and Certification,” see Vt. LBR App. C; see also Vt. LBR 3018-3;
 - (2) an affidavit of the plan proponent’s responsible officer and its attorney explaining the proof that the plan proponent will offer for each of the elements of 11 U.S.C. § 1129(a); and
 - (3) any other document necessary to achieve plan confirmation.
- (b) **Cram Down Under § 1129(b).** A motion for a “cram down” pursuant to 11 U.S.C. § 1129(b) will be heard at the confirmation hearing only if a request for hearing is filed and served at least fourteen (14) days before the scheduled confirmation hearing on the following parties: the attorneys for all members of the non-accepting classes or the members if they are not

Vt. LBR 3020-1. CHAPTER 11 – CONFIRMATION

represented by counsel; the attorney for any committee or the committee members if the committee is not represented by counsel; and the Office of the U.S. Trustee.

- (c) **Order Confirming Chapter 11 Plan.** Proposed Findings of Fact and Order Confirming the Plan shall be in substantially the same form as Appendix D, “Order Confirming Chapter 11 Plan.” The proposed order must provide that all outstanding fees due to the Office of the U.S. Trustee will be paid by a date certain and shall contain affirmative decretal paragraphs directing compliance with Vt. LBR 3022-1(a), (c) and (d). The following language is acceptable and it, or substantially similar language, must be included in the Order:

ORDERED that the proponent of the plan or the disbursing agent defined in the plan shall comply with Vt. LBR 3022-1 by filing the report of substantial consummation and the motion for final decree no later than 180 days after the entry of this Order confirming the plan, unless the Court, for cause shown, extends the time upon motion filed and served within this 180-day period; and it is further

ORDERED that the proponent of the plan or the disbursing agent defined in the plan shall file with the Court and serve on the Office of the U.S. Trustee an affidavit showing all cash disbursements for each month after confirmation of the case. The affidavit shall be due on the last day of the month after the month reported. The duty to file the monthly affidavit shall cease upon the entry of the final decree, the conversion of the case to another chapter under Title 11 of the United States Code, or the dismissal of the case. The affidavit shall disclose all disbursements for the reorganized debtor by stating the total amount of payments made in that month pursuant to the plan, with a subtotal of payments for each class defined in the plan. The affidavit will further disclose whether the total amount paid to each class complies with the terms of the plan, is in a lesser amount, or whether there is a good faith dispute about the amount owed; the administrative expenses paid; and a total of cash disbursements made in the ordinary course of the debtor’s ongoing operations; and it is further

ORDERED that the debtor shall pay a sum certain determined by the Office of the U.S. Trustee to the Office of the U.S. Trustee for fees due pursuant to 28 U.S.C. § 1930(a)(6) within ten (10) days of the entry of this Order and to continue to make timely quarterly payments to the Office of the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6) until the entry of the final decree, the conversion of the case to another chapter under Title 11 of the United States Code, or the dismissal of the case.

VT. LBR 3021-1. DIVIDENDS UNDER PLAN (CHAPTER 11)

Reserved

VT. LBR 3022-1. FINAL REPORT/DECREE (CHAPTER 11)

- (a) **Report of Substantial Consummation.** The plan proponent or the disbursing agent defined in the plan shall file a report of substantial consummation that provides a basis for the Court to find that the proponent of the plan has satisfied the criteria of 11 U.S.C. § 1101(2).
- (1) The report of substantial consummation shall be accompanied by a motion for final decree on notice to all creditors and parties in interest;
 - (2) Unless otherwise ordered, the motion for final decree shall request that the Court terminate jurisdiction over the case and direct the Clerk's Office to close the case and include as exhibits:
 - (A) the final report form in substantial compliance with paragraph (d) of this Rule; and
 - (B) photocopies of the front and back of each canceled check showing the distributions made pursuant to the confirmed plan for commencement of the distribution under the plan, pursuant to § 1101(2)(C);
 - (3) The items required by paragraphs (a)(2)(A) and (B) of this Rule need not be served with the motion for final decree *except* that the Office of the U.S. Trustee shall be served with a copy containing exactly the same items as were filed with the Clerk.
- (b) **Time for Filing.** The Court may require that the report of substantial consummation be filed as soon as all checks issued for the first distribution under the plan have cleared. In no event shall the report of substantial consummation be filed later than 180 days after entry of a final order confirming a plan, unless, upon motion filed and served within the original 180-day period and for good cause shown, the Court extends the time.
- (c) **Affidavit of Post-Confirmation Disbursements.**
- (1) The plan proponent or the disbursing agent defined in the plan shall file with the Clerk and serve on the Office of the U.S. Trustee an affidavit showing all cash disbursements for each month after confirmation of the plan;

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- (2) The affidavit shall be due on the last day of the month after the month reported. The duty to file the monthly affidavit shall cease upon the entry of the final decree, the conversion of the case to another chapter of the Bankruptcy Code, or the dismissal of the case;
- (3) The monthly affidavit shall disclose all disbursements by stating:
- (A) the total amount of payments made in that month pursuant to the plan with a subtotal of payments for each class defined in the plan; whether the total amount paid to each class is in compliance with the terms of the plan; whether the amount paid is less than the amount required by the plan, and whether there is a good faith dispute about the amount owed;
 - (B) the administrative expenses paid; and
 - (C) a total of cash disbursements made in the ordinary course of the debtor's ongoing operations, if any.
- (d) **Final Report Form.** The final report shall be an affidavit and shall include, but is not limited to, the following information:

	Allowed	Paid
(1) Administrative Expenses:		
Trustee's compensation (if applicable)	\$ _____	\$ _____
Attorney for trustee's compensation (if applicable)	\$ _____	\$ _____
Attorney for debtor's compensation	\$ _____	\$ _____
Other professionals' compensation	\$ _____	\$ _____
All other administrative expenses [define]	\$ _____	\$ _____
Total Administrative Expenses	\$ _____	\$ _____
(2) Percentage and amount of claims paid: (for each defined class)		
Percentage of claims paid to class [X]	_____ %	_____ %
Amount paid to class [X]	\$ _____	\$ _____
Total Plan Payments	\$ _____	\$ _____

VT. LBR 3070-1. CHAPTER 13 – PAYMENTS

- (a) **Payments to the Chapter 13 Trustee.** The Chapter 13 trustee shall file a payroll deduction order for plan payments prior to or upon the confirmation

of the plan in all Chapter 13 cases except where the debtor is not receiving a regular paycheck from an employer or where extraordinary circumstances are demonstrated. The Chapter 13 trustee, in his/her sole discretion, shall determine and recommend whether a wage deduction order should be waived. A payroll deduction order may be issued before confirmation of a plan. The plan shall state whether payments shall be made by direct payment to the Chapter 13 trustee, direct debit of the debtor's bank account, or by wage withholding. Until a payroll deduction order or direct debit of the debtor's account is in effect, the debtor shall make all plan payments in the form of a cashier's check, certified check, or money order payable to the "Chapter 13 Trustee," and the debtor shall mail the payments directly to the Chapter 13 trustee at an address that the trustee designates. The face of the payment instrument shall include the debtor's name and the Chapter 13 case number.

(b) Trustee's Expenses Upon Dismissal or Conversion.

- (1) **Standard Award of Expenses.** Pursuant to 11 U.S.C. §§ 503(b) and 1326(a)(2), the Chapter 13 trustee may collect from pre-confirmation payments made by the debtor the sum of \$100 (as may be adjusted from time to time) as an award for expenses in any Chapter 13 case dismissed or converted to another chapter prior to the confirmation of the Chapter 13 plan;
- (2) **Itemized Expenses.** Notwithstanding subparagraph (1), if the Chapter 13 trustee determines that a larger reimbursement of expenses is appropriate, the trustee shall itemize the expenses for which reimbursement is sought in the Trustee's Final Report and Account;
- (3) **Notice of Award.** The trustee shall give notice of the proposed award of expenses under subparagraphs (1) or (2) above to the debtor, the debtor's attorney, if any, and the Office of U.S. Trustee by separate written notice. The Court will consider the trustee's request at the hearing on the Trustee's Final Report and Account.

PART IV

Vt. LBR 4001-1. AUTOMATIC STAY – RELIEF FROM

- (a) Motion Contents.** A motion for relief from stay shall include the following information to the extent applicable:

Vt. LBR 4001-1. AUTOMATIC STAY – RELIEF FROM

- (1) the identity of the property (e.g., the vehicle identification number (“VIN”), make, model, serial number of a vehicle; volume/page number and town where ownership of real property is recorded; name and docket number of a pending court action);
 - (2) the names and purported interests of all parties known, or discovered after reasonable investigation, who claim to have an interest in the property;
 - (3) the amount of the outstanding indebtedness, the fair market value of the property, and the basis for the valuation;
 - (4) legible and complete copies of all relevant loan and security agreements, or initial and signature pages of these documents if voluminous;
 - (5) evidence of perfection; and
 - (6) copies of any prior orders of the Court upon which the motion relies.
- (b) **Service of Motion.** All motions must be filed with the Clerk. The movant must file a separate certificate of service showing service of the motion on the debtor, the debtor’s attorney, the case trustee (if any), appropriate parties in interest, and the Office of the U.S. Trustee, promptly after effecting service and no later than three (3) days before the hearing.
- (c) **Stipulation.** A stipulation to relief from stay shall describe the property or interest involved, state the property’s fair market value, the basis for valuation, and list any encumbrances against the property. Notice required under Vt. LBR 9013-2(d) is waived for stipulated motions for relief from stay when: (1) all parties entitled to notice have been served with the motion; and (2) all parties in interest have evidenced their consent. See Vt. LBR 9011-1(e) and (f). Additionally, no notice of a stipulation is required to be served if the motion for relief from stay was previously noticed for hearing and no party has objected or the Court has overruled any objection filed.
- (d) **Final Hearing.** Within 30 days after the filing of a motion for relief from stay, except in those instances where paragraph (c) above is used or the motion is filed under the Court’s default procedure, see Vt. LBR 9013-4, the Court shall hold a hearing on the motion. If a movant schedules a hearing on a motion for relief from stay more than 30 days after filing the motion, such movant must include an affirmative waiver of the termination of the stay after 30 days, see 11 U.S.C. § 362(e); the stay continues in effect

pending the conclusion of a final hearing and determination by the Court under paragraph (d) of § 362. Likewise, when the parties agree to adjourn the hearing, an equal extension of time shall be deemed added to the 30-day requirement set forth in 11 U.S.C. § 362(e).

- (e) **Evidentiary Hearing.** The final hearing shall be an evidentiary hearing. Each party planning to present evidence shall contact the Courtroom Deputy to ensure there is sufficient time for the presentation of his/her/its evidence and shall file and serve a Rule 9014(e) Notice of Evidentiary Hearing at least ten (10) days prior to the hearing, unless a shorter time is authorized. See Vt. LBR 9014-1; see also Vt. LBR App. H.
- (f) **Order Granting Relief from Stay.** If the order granting relief from stay authorizes sale of collateral, the order must specifically direct the creditor to deliver all surplus money, if any, to the trustee promptly after the consummation of the sale and if there is surplus money, also to serve the case trustee with an accounting of the sale promptly after its consummation.

Vt. LBR 4001-2. CASH COLLATERAL

- (a) **Motion Contents.** A motion for use of cash collateral pursuant to 11 U.S.C. § 363 shall explicitly state the adequate protection offered to the secured creditor. Appraisals and projections, to the extent pertinent, are to be summarized in the motion.
- (b) **Interim Hearing on Use of Cash Collateral.** If, before the required 15-day notice period has expired, the debtor requests an interim hearing to obtain Court authorization to use only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing, the motion for interim relief shall provide: (1) the facts necessary for the Court to determine whether the debtor is at risk of immediate and irreparable harm; and (2) a detailed breakdown of the amount of cash requested and how it will be used. In exigent circumstances, the Court may authorize that the interim hearing be conducted by telephone or video conference without transcript or recording. See Vt. LBR 5076-1(b). The movant shall serve all secured creditors whose collateral is subject to the motion with notice of the interim hearing in the manner directed by the Court. See also Vt. LBR App. B, “How to File an Emergency Motion.”
- (c) **Final Hearing on Use of Cash Collateral.** A final hearing on a motion to use cash collateral may be held no earlier than 15 days after service of the motion. However, if the Court has held an interim hearing on the motion,

Vt. LBR 4001-3. OBTAINING CREDIT

all parties in interest were present, the Court has already approved the use of cash collateral requested, and the movant does not seek authorization to use additional cash collateral, then, in its discretion, the Court may cancel the final hearing. In such an instance, the Court may issue a final order on the motion after the 15-day notice period. In any event, in addition to the noticing requirements under the Bankruptcy Code and the Bankruptcy Rules, the final cash collateral hearing must be on notice to all parties on the master mailing list.

- (d) Stipulation for Use of Cash Collateral.** A stipulation for use of cash collateral shall include the same information as is required under paragraphs (a) and (b) above. Notice required under Vt. LBR 9013-2(d) is waived for stipulated motions for use of cash collateral when: (1) all parties entitled to notice have been served with the motion; and (2) all parties in interest stipulate to the relief, see Vt. LBR 9011-1(e) and (f).

Vt. LBR 4001-3. OBTAINING CREDIT

- (a) Generally.** Except for Chapter 13 debtors seeking to borrow funds to purchase motor vehicles, see paragraph (b), below, parties seeking to obtain credit should follow the same procedures as described in Vt. LBR 4001-2.
- (b) Purchase of a Motor Vehicle During a Chapter 13 Case.** In order to borrow funds to purchase a motor vehicle, a debtor must request a “Certificate of Approval” from the Chapter 13 trustee upon ten (10) days’ notice to all parties in interest, and satisfactorily demonstrate that the purchase of the motor vehicle:
- (1) may be accomplished for a sum not in excess of \$5,000;
 - (2) is necessary to ensure the debtor has reliable transportation; and
 - (3) is reasonably necessary to the debtor’s successful completion of his/her plan.

In addition, the debtor’s request for a Certificate of Approval shall include a description of the motor vehicle sought to be purchased (e.g., make, model, year), its purchase price, the proposed lender of the funds, the terms of financing, and how the debtor proposes to make any down payment on the purchase of the motor vehicle. If no objections are timely filed, then after expiration of the notice period, the Chapter 13 trustee may issue a Certificate of Approval authorizing the debtor to borrow up to \$5,000 to purchase the motor vehicle in accordance with the debtor’s request. If a timely objection is filed, then the matter shall be set for a hearing. Where a

Vt. LBR 4001-4. USE, SALE OR LEASE OF PROPERTY

debtor wishes to purchase a motor vehicle but cannot satisfy the requirements of this Rule, he/she must seek Court approval to do so. (Note: A motion seeking Court approval shall include substantially all the information required by this Rule together with an explanation as to why the movant cannot comply with the Rule.)

Vt. LBR 4001-4. USE, SALE OR LEASE OF PROPERTY

See Vt. LBR 6004-1(b) and (c).

Vt. LBR 4002-1. DEBTOR'S DUTIES

(a) Document Production. See also Vt. LBR 1002-1(a).

(1) In all Chapter 7 cases, to the extent he/she has it, each debtor shall provide the case trustee with the following documents at least seven days before the first scheduled § 341 meeting of creditors:

(A) for each residence, condominium, cooperative apartment, mobile home, lot, real property or time share owned and set forth on the debtor's schedules:

- (i) a copy of the deed of title and all mortgage deeds showing recording information and/or stock certificates;
- (ii) recent evidence of value (e.g., tax bill, grand list value), and copies of all appraisals performed within the last three (3) years); and
- (iii) current mortgage statements, including the pay-off amount on or near the date of filing;

(B) for each motor vehicle, snow machine, all-terrain vehicle (ATV), trailer or boat owned and set forth on the debtor's schedules:

- (i) a copy of the current title or, if none, a copy of the current registration;
- (ii) current secured creditor's statement of balance due; and
- (iii) a copy of the most recent appraisal or valuation;

(C) for each bank account in which the debtor had an interest within three (3) months prior to the filing, copies of the monthly bank statements for the three (3) months prior to the date of the filing;

Vt. LBR 4002-1. DEBTOR'S DUTIES

- (D) for each personal injury lawsuit or other lawsuit or cause of action in which the debtor has an interest, including those set forth on Schedule B of the debtor's schedules:
 - (i) the name and address of the attorney representing the debtor in the matter; and
 - (ii) a copy of the complaint and any correspondence with respect to the status of the action;
 - (E) copies of the complete federal and state income tax returns, including all schedules and attachments, for the two (2) years prior to the year of the filing of the bankruptcy case;
 - (F) for all asset transfers within one (1) year prior to the filing, any documents evidencing said transfers including copies of the bills of sale, closing statements, deeds or divorce decrees;
 - (G) for all retirement plans, annuities, and/or life insurance policies for which the debtor has had an interest within one (1) year prior to filing:
 - (i) a statement of current value; and
 - (ii) statements showing all activities in each said investment for the twelve (12) months prior to the filing date; and
 - (H) a copy of any decree of divorce entered within one (1) year of the filing and all State of Vermont Form 813s ("Affidavit of Income and Assets"), or equivalent inventory documents;
- (2) In Chapter 13 cases, each debtor shall provide the case trustee with copies of those documents referenced in subparagraph (1) above, as well as proof of insurance on all improved real estate, mobile homes, motor vehicles, boats, and/or business assets. The debtor shall also provide a written statement to the trustee indicating which of his/her assets are not insured;
 - (3) The debtor shall provide such additional documents (or copies thereof) as the case trustee reasonably requests and which the debtor has available.
- (b) Books and Records.** Upon filing a bankruptcy petition, each Chapter 11 debtor shall close and preserve its present books of account. Debtors-in-possession shall open and maintain new books of account showing all

income, expenditures, receipts and disbursements, and all other necessary financial information of the debtor while a debtor-in-possession.

- (c) **Monthly Operating Reports.** Each Chapter 11 debtor shall file original signed monthly operating reports with the Clerk. Each Chapter 11 debtor shall also provide timely paper copies, with original signatures, of monthly operating reports to the Office of the U.S. Trustee, unless the Office of the U.S. Trustee agrees to accept reports in a different format or medium.
- (d) **U.S. Trustee Operating Guidelines.** A Chapter 11 debtor shall comply with all operating guidelines issued by the Office of the U.S. Trustee, unless the Court, for good cause shown and after proper notice, modifies or waives the debtor's obligation to do so.

Vt. LBR 4002-2. ADDRESS OF DEBTOR
Reserved

Vt. LBR 4003-1. EXEMPTIONS

Property claimed as exempt in Schedule C of a bankruptcy petition must be specific; general descriptions, such as "automobile," "various" or "common stock," are not sufficient. Statutory citations, including the relevant subsections, authorizing an exemption must be set forth together with the value claimed as exempt. In a joint case, the exemptions claimed by each debtor shall be separately identified by spouse. See Vt. LBR 1015-1(a).

Vt. LBR 4003-2. LIEN AVOIDANCE

- (a) **Lien Avoidance in General.** In a Chapter 7 case, a motion filed pursuant to 11 U.S.C. § 522(f) to avoid the fixing of a lien on an interest of the debtor in property must be filed before the case is closed. In a Chapter 12 or 13 case, a § 522(f) motion to avoid lien must be filed at or before the date that the confirmation order is entered. Whether filed in a Chapter 7, 12 or 13 case, the motion to avoid lien must specify the value of the property, the basis for the valuation, all liens against the property, the amount due on each lien, and the amount of the claimed exemption.
- (b) **Identification of Liens Subject to Avoidance in a Chapter 12 or 13 Plan.** The debtor must also identify any lien subject to avoidance pursuant to 11 U.S.C. § 522(f) in the Chapter 12 or 13 plan, and the debt currently secured by such lien must be included in the amount of unsecured debt for purposes of projecting the minimum dividend for general unsecured creditors. The

VT. LBR 4003-2. LIEN AVOIDANCE

debtor must clearly specify the treatment of the lien and underlying debt in both the plan and the confirmation order.

- (c) **Orders Granting Motions to Avoid Liens.** If a debtor prevails on a motion to avoid lien, the order must specifically provide that the lien is avoided only if the case is not dismissed. Further, in a Chapter 12 or 13 case, the order shall be conditional and shall not be recorded in the relevant land records until the debtor has completed his/her Chapter 12/13 plan and the Chapter 12/13 trustee has endorsed the order certifying that the plan has been completed. Trustee certification language shall substantially comply with the following:

Certification of Chapter 12/13 Trustee

I, [name], the Chapter 12/13 Standing Trustee for the District of Vermont, hereby certify that the Debtor has completed his/her Chapter 12/13 Plan.

Dated: _____
Chapter 12/13 Trustee

VT. LBR 4004-1. DISCHARGE HEARINGS

Reserved

VT. LBR 4004-2. OBJECTIONS TO DISCHARGE (Note: See also Vt. LBR 7041-1.)

Sua Sponte Denial of Discharge. In a Chapter 7 case, in addition to the grounds for denying a discharge itemized in Bankruptcy Rule 4004(c), the Court may *sua sponte* deny a discharge if the debtor has failed to appear and be examined at the § 341 meeting of creditors without leave of the Court or has violated any other order of the Court.

VT. LBR 4007-1. DISCHARGEABILITY COMPLAINTS

Reserved

VT. LBR 4008-1. REAFFIRMATION

Reserved

VT. LBR 4070-1. INSURANCE

Reserved

VT. LBR 4071-1. VIOLATION OF AUTOMATIC STAY

Reserved

PART V

VT. LBR 5001-1. COURT ADMINISTRATION

Reserved

VT. LBR 5001-2. CLERK – OFFICE HOURS; LOCATION; WEBSITE

- (a) **Hours and Place for On-Site Non-Electronic Filing and Access to Records.** Petitions and all other papers may be filed non-electronically and/or reviewed on-site in the Clerk’s Office Monday through Friday, between 8:00 A.M. and 5:00 P.M., except on federal holidays.
- (b) **Address, Telephone and Fax Numbers.** The mailing address for the Clerk’s Office is P.O. Box 6648, Rutland, VT 05702-6648. The physical location of the Clerk’s Office is The Opera House, 67 Merchants Row, Rutland, VT 05701. The telephone number for the Clerk’s Office is (802) 776-2000, and the fax number is (802) 776-2020.
- (c) **Website.** Information about the Clerk’s Office, a copy of these Local Rules, a copy of issued decisions of this Court, information about electronic case filing and CM/ECF, instructions for how to schedule a hearing, as well as other useful information, can be found at the Court’s website at <http://www.vtb.uscourts.gov>.

VT. LBR 5001-3. CLERK – PUBLIC ACCESS TO RECORDS

- (a) **Public Access to Electronic Records and Hours of Electronic Filing.** The Clerk accepts electronically filed papers and makes the content of these papers available on the Court’s website via “Public Access to Court Electronic Records” (a/k/a “PACER”), 24 hours per day, seven (7) days per week. Any PACER subscriber is able to read, download, store and print the full content of all filed documents off-site, 24 hours per day, seven (7) days per week. Court records regarding closed or pending cases are also available on CM/ECF. However, only parties who are registered for CM/ECF may file documents and/or access information through CM/ECF. Documents may be filed, downloaded or viewed electronically, off-site, 24 hours per day, seven (7) days per week, in compliance with the procedures set forth in these Local Rules. Information posted on CM/ECF or otherwise made available by the Clerk’s Office must not be downloaded or otherwise used in ways that are inconsistent with the privacy of any person.
- (b) **Orders Limiting Access.** Any party in interest may file a motion for an order limiting electronic access to, or prohibiting the electronic filing of, sensitive information upon a showing that such material infringes upon

Vt. LBR 5003-1. CLERK – DUTY TO MAINTAIN RECORDS

privacy rights, that electronic access to such sensitive information is likely to be prejudicial, and that denial of public access is warranted. See Vt. LBR 5005-1.

- (c) **Personal Data Identifiers.** In compliance with the policy of the Judicial Conference of the United States and the E-Government Act of 2002, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal identifiers from all papers filed with the Court, including exhibits thereto, whether filed electronically or non-electronically, unless otherwise ordered by the Court:

- (1) **Social Security Numbers.** If an individual's Social Security number is required to be included in a court filing, only the last four digits of that number should be used; however, this Rule does not apply to Official Form 21;
- (2) **Names of minor children.** If the existence of a minor child is required to be disclosed in a court filing, only the initials of that child shall be disclosed.
- (3) **Dates of birth.** If an individual's date of birth is required to be disclosed in a court filing, only the year shall be disclosed.
- (4) **Financial account numbers.** If financial account numbers are required to be disclosed in a court filing, only the last four digits of such account numbers shall be disclosed.

The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review each paper to verify redaction of personal data identifiers. If a party determines it needs any of the above-enumerated redacted information, such party shall contact the debtor's attorney (or the debtor if the debtor is proceeding *pro se*) to request it. If the party's request is refused, the party may then move the Court for a determination of whether the debtor must provide the requested information.

Vt. LBR 5003-1. CLERK – DUTY TO MAINTAIN RECORDS

- (a) **General Duty to Maintain All Records.** The Clerk shall maintain all official records of the Court. The official court records for documents filed after April 1, 2002 are electronic records.

VT. LBR 5005-1. REQUIREMENTS FOR SUBMITTING AND SEALING DOCUMENTS

- (b) **Retention of Paper Records.** The Clerk will retain the following paper documents for a minimum of five (5) years: (1) the original paper filing of the Declaration REF signed by the debtor(s) under penalty of perjury relating to the petition, schedules and statements filed to commence a case; (2) the paper form of the Declaration REF with original signature corresponding to any amendments to these documents; and (3) the original paper filing of every Chapter 11 operating report or amendment to operating report. A copy of the pertinent Notice of Electronic Filing which includes the electronic document stamp shall be attached to each of these documents.
- (c) **Official Form 21, Statement of Social Security Number(s).** The Court shall retain all Official Form 21s submitted for a minimum of five (5) years.

VT. LBR 5003-2. COURT PAPERS – REMOVAL OF
Reserved

VT. LBR 5003-3. CLAIMS REGISTER
Reserved

VT. LBR 5005-1. REQUIREMENTS FOR SUBMITTING AND SEALING
DOCUMENTS

- (a) **Order Required to Seal Documents.** All official records in possession of the Clerk are considered to be public documents available for inspection, both at the Clerk's Office and electronically through the Court's website, unless otherwise ordered. Cases, documents, and proceedings may be sealed only by order of the Court.
- (b) **Motion Required.** A party requesting a filing be sealed pursuant to 11 U.S.C. § 107 and Bankruptcy Rule 9018 shall file a separate motion to seal accompanying the specific document to be sealed. A motion to seal filed pursuant to 11 U.S.C. § 105 shall demonstrate compliance with In re Hemple, No.: 02-11045, Order (Bankr. D. Vt. June 18, 2003) (providing a list of criteria the Court will consider when determining whether to grant a motion to seal pursuant to 11 U.S.C. § 105), available at <http://www.vtb.uscourts.gov>.
- (c) **Document for Which Sealing is Sought.** A party submitting a document which the party requests be sealed must place the document in a sealed envelope and affix a copy of the document's cover page (with confidential information deleted) to the outside of the envelope. The party must designate the envelope with a conspicuous notation such as "DOCUMENT SUBJECT TO SEALING." Such document shall be submitted to the Clerk

VT. LBR 5005-2. FILING PAPERS – CONSEQUENCES OF ELECTRONIC FILING

for the Court’s in-camera review and final determination as to whether an order will be issued authorizing the document to be filed under seal.

- (d) **Motions, Orders, and Sealed Documents in an Electronically Filed Case.** A motion to seal may be filed electronically. Further, the Court’s order authorizing the filing of a document under seal shall be filed electronically. However, documents which a party seeks to be placed under seal or which the Court has authorized to be filed under seal must be filed non-electronically, not electronically, unless the Court authorizes otherwise. Where a motion to seal is granted, a paper copy of the order authorizing sealing must be attached to the document(s) to be filed under seal and be delivered to the Clerk.
- (e) **Eventual Disposal of Sealed Documents.** Unless the Court orders otherwise, the Clerk may return documents filed under seal to the party who filed them five (5) years after the case is closed or as soon thereafter as practical. If, after reasonable effort, the Clerk cannot locate the filer, the Clerk may destroy said documents without further notice or order of the Court.

VT. LBR 5005-2. FILING PAPERS – CONSEQUENCES OF ELECTRONIC FILING

- (a) **Consequences of Electronic Filing.** Electronic transmission of a document to the Clerk (through CM/ECF) consistent with these Local Rules, together with the transmission of a Notice of Electronic Filing from the Court, constitutes the filing of the document for all purposes of the Bankruptcy Rules and the Local Rules of this Court, and constitutes entry of the document on the docket kept by the Clerk pursuant to Bankruptcy Rule 5003.
- (b) **Official Record and Deemed Filing Date.** When a document has been filed electronically, the official record is the electronic recording of the document as stored by the Clerk, and the filing party is bound by the document as filed. A document filed electronically is deemed filed at the date and time entered into the CM/ECF System. See also Vt. LBR 1002-1(a).
- (c) **Filing Deadline Not Altered.** Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight in order to be considered filed that day.

VT. LBR 5005-3. FILING AND TRANSMITTAL OF DOCUMENTS

Parties filing documents in this Court must comply with the following presentation criteria:

(a) Size and Format. Filings and attachments must conform to these specifications:

- (1) be on an 8½" x 11" page;
- (2) be plainly legible, whether typed, handwritten or duplicated;
- (3) have no less than ¾" margins, exclusive of page numbers;
- (4) be consecutively paginated, with page numbers on the bottom of the page;
- (5) use 1.5 or 2.0 line spacing, except for quoted material and footnotes;
- (6) use footnotes sparingly; and
- (7) if filed on paper, be stapled or otherwise attached, but not permanently bound or submitted in a binder.

(b) Identification of Attorney and Party Being Represented. The attorney's name, current office address, telephone number, fax number, e-mail address, and the name of the party the attorney is representing, must appear below the signature line of all filings, whether filed electronically or non-electronically.

(c) Identification of Filings. All filings must contain:

- (1) the caption of the case, including the debtor's full name as stated on the petition and the chapter under which the case currently proceeds, but excluding the debtor's social security number(s);
- (2) the case number, except for documents filed with or before the petition, when no case number is yet assigned;
- (3) a title describing the filing's contents and/or the relief sought;
- (4) the name of the party on whose behalf it is filed;
- (5) signatures complying with the current requirement regarding original, fax, and electronic filing; and

Vt. LBR 5005-4. ELECTRONIC AND FAX FILING

- (6) the title or function in the case of all persons named at least once in the filed document.
- (d) **Affidavits.** An affidavit must identify the filing it relates to by indicating that document's title and date of filing.
- (e) **Removed Actions.** This Rule does not apply to papers filed in actions removed to this Court or to the transmission of the record from another court to this Court.

Vt. LBR 5005-4. ELECTRONIC AND FAX FILING

- (a) **Case Management/Electronic Case Filing ("CM/ECF").** All petitions, pleadings, and other documents and papers may be filed by electronic means. Instructions and procedures for electronic filing are posted on the Court's website at <http://www.vtb.uscourts.gov>, and are available from the Clerk's Office upon request. When one files a document electronically, the document shall be filed, signed, and verified by means that are consistent with these Local Rules. See Vt. LBR 9011-1(c) and (g); Vt. LBR 9011-4.
- (b) **Eligibility, Registration and Passwords for Electronic Filings.**
 - (1) **Registration - Attorneys.** Attorneys admitted to the bar of this Court (including those admitted *pro hac vice*), United States Trustees and their assistants, bankruptcy administrators and their assistants, private trustees, creditors and others as the Court deems appropriate, may register to use the Court's CM/ECF System. Registration is in the form prescribed by the Clerk and requires the registrant's name, address, telephone number, fax number, e-mail address, and, in the case of an attorney, a declaration that the attorney is admitted to the bar of this Court.
 - (2) **Registration - Non-Attorneys.** If the Court permits, a party to a pending matter who is not represented by an attorney may register as a party registered to use CM/ECF solely for purposes of that particular matter after being trained by the Clerk's Office. Registration is in the form prescribed by the Clerk and requires identification of the case and matter, as well as the name, address, telephone number, fax number (if any), and e-mail address (if any) of the party. If, during the course of the matter, the party retains an attorney who appears on the party's behalf, the attorney must advise the Clerk, and the Clerk shall terminate the party's CM/ECF registration upon the attorney's filing of an appearance in the matter.

(Note: Any party may file a motion for relief from stay, proof of claim, notice of transfer of claim, withdrawal of claim, notice of appearance, or request for notice in a case, without having registered to use CM/ECF. See Vt. LBR 2090-1(b)(6).)

- (3) **Waiver of Service and Notice by Mail.** If one arranges for e-mail notification through CM/ECF, then one also: (1) waives the right to receive notice by first class mail and consents to receiving notice electronically; and (2) waives the right to service by personal service or first class mail and consents to electronic service, except with regard to service of a summons and complaint under Bankruptcy Rule 7004. Waiver of service and notice by first class mail also applies to notice of the entry of an order or judgment under Bankruptcy Rule 9022. (Note: Arranging for e-mail notification is discussed in the Clerk's training session required for registering to use CM/ECF.)
- (4) **Security of Passwords.** Once registration is completed, the registrant will receive notification of the user log-in and password. Persons registered to use CM/ECF agree to protect the security of their passwords and immediately notify the Clerk if they learn that their password has been compromised. Users may be subject to sanctions for failure to comply with this provision.
- (c) **Fax Filings.** The following documents may be filed by facsimile: emergency petitions filed pursuant to Bankruptcy Rule 1007(c); proofs of claim; adversary proceeding complaints; objections to motions or any other papers. Parties filing by fax are required to attempt service on all parties in interest via fax and simultaneously fax a certificate of service to the Clerk. Exhibits to motions, pleadings and other papers that are filed by fax must be clearly marked as exhibits. Do not mail an original of the document faxed to the Clerk. Court fees required at the time of filing must be paid using the provisions set forth in paragraph (e) of this Rule. See also Vt. LBR 5001-2(b) (providing Clerk's fax number). The Office of the U.S. Trustee will not accept service of any documents by fax; therefore, all items sent to the Office of the U.S. Trustee via facsimile must also be served on the Office of the U.S. Trustee by first class mail. (Note: To the extent a document is filed electronically, the Office of the U.S. Trustee will be served and notified electronically, making first class mailing unnecessary; however, this does not apply to monthly operating reports. See Vt. LBR 4002-1(c).)

VT. LBR 5010-1. REOPENING CASES

- (d) **Technical Failures.** A party registered to use CM/ECF whose filing is rendered untimely as a result of a technical failure may seek appropriate relief from the Court.
- (e) **Form of Payment.** A party shall make payments due on documents filed by electronic means or by fax with a credit card (or debit card, if feasible). See Vt. LBR 5081-1(c).

VT. LBR 5009-1. FINAL REPORT/DECREE

Reserved

VT. LBR 5010-1. REOPENING CASES

A party moving to reopen a case must comply with Bankruptcy Rule 7004. The Court shall treat a motion to reopen as a contested matter when determining the adequacy of notice of the motion. See, e.g., In re Foster, No.: 03-11449, Order (Bankr. D. Vt. Mar. 4, 2004) (providing instruction on the proper service of a motion to reopen), *available at* <http://www.vtb.uscourts.gov>.

VT. LBR 5011-1. WITHDRAWAL OF REFERENCE

Reserved

VT. LBR 5011-2. ABSTENTION

Reserved

VT. LBR 5070-1. CALENDARS & SCHEDULING

The Courtroom Deputy shall schedule pre-trial conferences, summary judgment motions, evidentiary hearings, trials, disclosure statement hearings, and confirmation hearings. Attorneys shall schedule all other hearings. When setting hearings, movants shall select the location (Rutland or Burlington) where the § 341 meeting of creditors is (or was) scheduled, unless otherwise agreed between the interested parties or due to exigent circumstances as determined by the Court.

VT. LBR 5071-1. CONTINUANCES

No continuance will be granted except upon motion showing good cause and upon such terms and conditions as the Court may impose. Mere agreement of counsel does not constitute good cause. A request for a continuance based on a conflicting engagement must be accompanied by proof that the other matter was scheduled first and must be timely filed with the Clerk. A motion to continue a trial must contain a certification that the party on whose behalf the request has been filed and opposing counsel have both been notified of the request for a continuance. See also Vt. LBR 9013-2(h).

Vt. LBR 5072-1. COURTROOM DECORUM

The following procedures are to be adhered to in all proceedings in open court:

- (a) there shall be no oral confrontation or colloquy directly between opposing attorneys or parties;
- (b) all persons addressing the Court shall stand, unless the hearing is conducted via interactive TV and the Court determines implementation of this Rule would interfere with effective transmission;
- (c) all objections shall be stated with specificity prior to any argument or explanation of same (e.g., leading, hearsay, improper foundation, etc.);
- (d) during the testimony of a witness, attorneys shall not approach the witness box, bench, or the court reporter without the Court's prior approval, and shall treat all witnesses with dignity and respect;
- (e) counsel shall request assistance from the Courtroom Deputy if they wish to use blackboards, view boxes, or other audio-visual aids and shall make their request sufficiently in advance of the need to allow for set-up of the requested equipment when the Court is not in session;
- (f) counsel wishing to appear by telephone shall obtain Court approval in advance and make arrangements for the telephonic connection with the Courtroom Deputy at least one (1) full business day in advance of the time set for the hearing;
- (g) counsel and their clients, if present, shall all be seated in the courtroom while waiting for their case to be called, shall be prepared to proceed when their case is called, and shall refrain from talking while court is in session;
- (h) counsel shall dress professionally and advise their clients to dress appropriately; and
- (i) counsel shall address each other and all witnesses by formal name (i.e., by surname rather than by first name) during all court proceedings.

**Vt. LBR 5073-1. PHOTOGRAPHY, RECORDING DEVICES; CELLULAR
TELEPHONES, LAPTOP COMPUTERS; RECORDING &
BROADCASTING BY THE COURT**

- (a) **Prohibition Against Certain Devices.** The use of cameras, radios, cellular telephones, paging devices, tape recorders, and other similar devices, is

Vt. LBR 5076-1. COURT REPORTING

expressly prohibited in any court facility, except with the Court's permission. Failure to follow this Rule shall be grounds for refusal of admission to court facilities and may subject the offender to: (1) detention, arrest, and prosecution as provided by law; or (2) sanctions imposed by the Court.

- (b) **Limited Permission for Attorneys.** Attorneys may bring cellular telephones and paging devices, if turned off, and laptop computers, if necessary to a scheduled matter, into the courtroom. However, if such equipment disrupts court proceedings, the Court may impose such sanctions as it deems appropriate. Further, if these permitted pieces of equipment have the capability of functioning as prohibited devices (e.g., a cellular telephone that can take photographs), then the attorney must disclose this capability to a court security officer and refrain from using it in the court facility unless the Court grants the attorney specific permission to do so.
- (c) **Recording and Broadcasting by the Court.** The Court may permit electronic or photographic preservation of evidence and perpetuation of the record. The Court may also permit broadcasting, televising, or photographing of investiture or ceremonial proceedings. The Court may conduct video conferences at court facilities or at an off-site location.

Vt. LBR 5075-1. CLERK - DELEGATED FUNCTIONS

Reserved

Vt. LBR 5076-1. COURT REPORTING

- (a) **Proceedings, Hearings, and Meetings.** Except as provided in paragraph (b) of this Rule, all trials and proceedings, other than emergency hearings, shall be recorded by a court reporter or by an electronic court recording system.
- (b) **Telephonic and Emergency Hearings.** Telephonic and emergency hearings may be conducted with Court approval. A party wishing to have a transcript of a telephonic or emergency hearing that the Court would not otherwise record, must provide a court reporter or means of recording, and must provide a transcript to the Court within five (5) days following the hearing.

Vt. LBR 5077-1. TRANSCRIPTS

- (a) **Audio Record of Court Proceedings.** The Court may use an electronic recording system to create an audio record of all hearings. If so, the Court will make a compact disk ("CD") of a hearing available within two (2)

hours of the hearing for a fee to be set by the Court. While a party may wish to have the contents of a CD transcribed for its use, neither the audio record nor the CD is the official transcript of the hearing. Refer to paragraph (b) below for instructions on acquiring an official written transcript of a hearing.

- (b) **Official Written Transcript.** When a party requests an official transcript of a Court hearing, the Court shall provide the transcript (contained on CD) to a transcription service. However, the requesting party must pay all expenses to prepare the transcript and must file a copy with the Clerk. If the Court deems a transcript necessary, the Court may order a transcript and assign the transcript cost to the parties.

Vt. LBR 5078-1. COPIES – HOW TO ORDER

Reserved

Vt. LBR 5080-1. FEES – GENERAL

Reserved

Vt. LBR 5081-1. FEES/FORM OF PAYMENT

- (a) **Payments from Debtors.** In connection with the filing of a petition, a debtor must pay the filing fee with cash, certified check, bank draft or money order. For services other than the filing of a petition, the Clerk may accept personal checks, credit cards or debit cards as payment from debtors, but the Clerk has both the discretion and authority to reject any of these forms of payments from debtors.
- (b) **Acceptable Forms of Payment.** Except as provided by paragraph (a) above, any of the following are acceptable forms of payment: cash; check; money order; credit or debit cards issued by VISA, MasterCard, American Express, Discover, or Diners Club.
- (c) **Payment by Credit or Debit Card.** Fees may be paid by physically presenting a credit or debit card or by providing a separate document including the cardholder's name as it is printed on the card, whether the payment will be a credit or a debit payment, the card number, the expiration date, and an authorization for the Clerk to charge the credit card or debit the debit card. Credit or debit card information provided in accordance with this Rule shall remain confidential. Authorization is required for each transaction except that the Clerk may maintain credit or debit card information and waive individual transaction requests for frequent users. Upon the written request from the frequent user in a form acceptable to the

VT. LBR 5091-1. SIGNATURES – JUDGES

Clerk, the written authorization for each transaction may refer to the data on file rather than requiring re-transmittal of the credit or debit card information for each filing.

- (d) **Effect of Non-Payment.** Unless the Court orders otherwise, the Clerk shall not be required to render service for which a fee is prescribed by statute unless the fee is paid in advance.
- (e) **Payment of Fee in Installments.** An application for permission to pay the filing fee through installment payments may be filed pursuant to Bankruptcy Rule 1006(b). See also Vt. LBR 1006-1.

VT. LBR 5090-1. JUDGES – VISITING & RECALLED

Reserved

VT. LBR 5091-1. SIGNATURES – JUDGES

Any order electronically signed and then electronically filed has the same force and effect as if the judge had affixed his/her signature to a paper copy of the order and the Clerk had entered it on the docket in a non-electronic manner. See also Vt. LBR 9036-1(c).

VT. LBR 5092-1. SEAL OF COURT

Reserved

VT. LBR 5095-1. INVESTMENT OF ESTATE FUNDS

Reserved

PART VI

VT. LBR 6004-1. SALE OF ESTATE PROPERTY

- (a) **Sale or Refinancing of Property in Chapter 13 Cases.** (Note: See also Vt. LBR 4001-3(b).)
 - (1) **Order Required.** No sale or refinancing of the debtor’s principal residence or other real property may take place while a Chapter 13 case is pending unless the Court approves the sale or refinance after notice to all parties in interest, see Bankruptcy Rule 2002(a)(2) (requiring 20 days’ notice), the sale or refinance was approved as part of the confirmation process, or the debtor obtains trustee approval using the procedure described in subparagraph (2) below.

- (2) **Trustee's Approval.** If the debtor wishes to use the proceeds of the sale or refinancing of property to fund a Chapter 13 plan, the debtor may request a "Certificate of Approval" from the Chapter 13 trustee upon ten (10) days' notice to all parties in interest, as long as one of the following conditions are met:

- (A) all of the proceeds of the sale or refinancing will be utilized to fund the Chapter 13 plan; or
- (B) the plan pays no less than 15% to the debtor's unsecured creditors and any proceeds to be retained by the debtor are within the exemptions claimed by the debtor and permitted by applicable law.

The debtor's request for a Certificate of Approval must indicate which of the two conditions will be met if the sale or refinancing is approved, list any loans secured by the property, and itemize how the debtor proposes to distribute the proceeds. If no objections are timely filed, then after the expiration of the notice period, the Chapter 13 trustee may issue a Certificate of Approval authorizing the debtor to use the proceeds of the sale or refinancing of the property to fund the Chapter 13 plan in accordance with the debtor's request. If a timely objection is filed, then the matter shall be set for a hearing.

- (3) **Sale Plans.** If the Chapter 13 plan sets forth the terms of sale, and if the debtor obtains and disburses proceeds as projected in the plan, then no separate order approving the sale is required, and the confirmation order will constitute the order approving the sale.
- (4) **Closing Costs or Broker's Commissions.** Where a Chapter 13 plan calls for the sale of real or personal property and a broker's commission is payable as part of the sale, the broker may collect a commission up to six (6) percent (or ten (10) percent for vacant land or commercial property) of the sale price without a Court order, absent exigent circumstances. The Court must be made aware of any exigent circumstances prior to the sale. Customary closing costs do not need prior court approval for disbursement, *provided they have been set forth in the plan.*
- (5) **Payment of Secured Claims.** If there is a mortgage or other claim secured by the property being sold and it is to be paid from the sale proceeds, the secured creditor shall be paid directly except that any pre-petition arrearage due shall be paid through the Chapter 13 trustee unless the Court orders a different treatment of the secured claim.

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(Note: Vt. LBR 4001-3(b) provides the procedure to follow for purchasing of a motor vehicle in a Chapter 13 case.)

(b) Sales Free and Clear of Liens. A party seeking to sell property free and clear of liens must obtain a Court order approving the sale.

(1) Contents of Motion. The motion must include:

- (A) a detailed description of each property to be sold;
- (B) the value of each property to be sold together with the basis for each valuation;
- (C) a listing setting forth the holders and amounts of all secured claims against each property to be sold such that the Court can determine whether the proposed sale price for each property is sufficient to pay the loans against each such property;
- (D) the terms of the bidding;
- (E) the date, time and location of the hearing to approve the sale procedure, if applicable;
- (F) the date, time and location of the proposed sale;
- (G) the date, time and location of the hearing to approve the results of the sale, if applicable; and
- (H) an affirmation that the proposed sale complies with 11 U.S.C. § 363(f) with an explanation of how compliance has (or will be) achieved;

(2) Notice. The notice of sale shall set forth the information outlined in subparagraph (1) above and may do so in summary form. The notice of sale shall also make clear that the sale is subject to Court approval and that even if the trustee deems a bid to be the highest and best bid, the Court may still deny approval of such bid if it finds such bid is not in the best interest of the estate or finds it is not in compliance with the Bankruptcy Code and/or Bankruptcy Rules. The notice of sale and notice of motion shall be served on all secured creditors, the Office of the U.S. Trustee, all other parties listed on the master mailing list, and all parties as the movant, through due diligence, determines to be potential bidders.

- (3) **Certificate of Service; Affidavit.** The movant shall file a certificate of service as to the notice of sale and notice of motion. Unless otherwise ordered, the movant shall also file an affidavit with the certificate of service that specifies: (1) who was served; (2) how and what due diligence was undertaken to determine potential bidders; and (3) what steps the movant took, including, but not limited to, the scope of notice, to maximize value to the estate.
 - (4) **Hearings.** If a movant seeks Court approval of a proposed sale procedure, a hearing to approve the proposed sale procedure must be set at least eight (8) days before the proposed sale, unless the Court approves a shorter time. The movant must **also** set a hearing to approve the sale within eight (8) days of the sale, unless the Court approves a longer time.
 - (5) **Potential Consequence of Noncompliance.** Failure to comply with the requirements of this Rule may result in the sale being denied or postponed. Further, any costs incurred by other parties due to the movant's noncompliance may be assessed against the movant or movant's counsel.
- (c) **Other Sales Outside the Ordinary Course of Business.** If the movant is not seeking to sell property free and clear of liens, then no motion to sell is necessary; a notice of intent to sell is sufficient. A notice of intent to sell outside the ordinary course of business shall include:
- (1) the type of sale and known prospective purchasers;
 - (2) the terms of sale, including but not limited to: the location and condition of the items to be sold; the minimum requirements for bidding; whether the sale is subject to higher and better offers; the funds required at approval of the sale; the form of funds required at approval of the sale and at closing of the sale; and a proposed date for both the actual sale and closing of the sale;
 - (3) identification of the property (e.g., the VIN, make, model, serial number of a vehicle; volume/page number and town where ownership of real property is recorded), as applicable;
 - (4) the names and purported interests of all parties known, or discovered after reasonable investigation, to claim an interest in the property;

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- (5) the fair market value of the property, the basis for valuation, and, the amount of any outstanding indebtedness secured by the property; and
 - (6) any other information that provides due process to all parties in interest and is likely to maximize the sale price.
- (d) Notice of Intent to Sell and Order.** The Court will sign and enter an order approving sale of estate property by the case trustee submitted in conjunction with a notice of intent to sell, as referenced in paragraph (c), provided the proposed order contains all the information set forth in the notice, indicates that no objections were filed within the time required under the applicable Bankruptcy Rules, and contains sufficient specificity to allow the Court to make a determination that the statutory requirements of 11 U.S.C. § 363(b)(1) have been met.
- (e) Form of Orders Approving Sales.** All orders approving sales shall state the name and address of the buyer, identify the property sold, specify the amount paid, and disclose the net proceeds to the estate. If the property purchased is different from the property listed on the notice of sale, then the proposed order shall state any differences.
- (f) Chapter 11 - Additional Requirements.** If the debtor-in-possession or trustee seeks authority to sell all or substantially all of the assets of the estate under 11 U.S.C. § 363(b) prior to the entry of a confirmation order, the motion to sell shall contain the following:
- (1) a clear and conspicuous statement to that effect;
 - (2) the terms of sale, including but not limited to: the location and condition of the items to be sold; the minimum requirements for bidding; whether the sale is subject to higher and better offers; the funds required at approval of the sale; the form of funds required at approval of the sale and at closing of the sale; and a proposed date for both the actual sale and closing of the sale;
 - (3) the information required under Bankruptcy Rule 2002(c);
 - (4) the extent to which the proceeds of sale shall be used to benefit each class of creditors;
 - (5) the extent of the debtor's liabilities;
 - (6) the net value of the debtor's remaining assets, if any, not subject to the proposed sale; and

- (7) the business justification for disposing of estate assets before a disclosure statement has been approved or a plan confirmed.

VT. LBR 6005-1. APPRAISERS & AUCTIONEERS

The following shall apply to auctioneers only.

- (a) **Compensation.** Unless otherwise ordered by the Court for good cause, compensation and reimbursement of expenses shall be allowed to an auctioneer for sale of property as set forth in this Rule. The maximum allowable commissions on the gross proceeds of each sale are as follows:
- (1) 10% of any gross proceeds of sale on the first \$100,000 or less;
 - (2) 5% of any amount in excess of \$100,000, but not in excess of \$200,000;
and
 - (3) 2.5% of any amount in excess of \$200,000;
 - (4) The auctioneer shall be reimbursed for reasonable and necessary expenses directly related to the sale including bond or blanket bond premium and cost attributable to the sale (including labor, printing, advertising and insurance, but excluding worker's compensation, social security, unemployment insurance, or other payroll taxes). If the trustee directs the auctioneer to transport goods, then the auctioneer shall also be reimbursed for the costs associated with that transport. Unless the Court orders otherwise, an auctioneer shall be reimbursed for a blanket bond at a rate of \$100 per case or 10% of the gross proceeds from an auction, whichever is less, minus any amounts previously reimbursed for the bond.
- (b) **Purchase Prohibited.** Neither an auctioneer nor any officer, director, stockholder, other insider, relative, agent, nor employee of an auctioneer shall purchase, directly or indirectly, or have a financial interest in the purchase of, any property of the estate.
- (c) **Bond.** An auctioneer employed with Court approval shall not act until a surety bond in favor of the United States of America is provided in each estate at the auctioneer's expense, to be approved by and be in such sum as may be fixed by the Court, conditioned upon:
- (1) the faithful and prompt accounting for all monies and property which may come into the possession of the auctioneer;

- (2) compliance with all rules, orders, and decrees of the Court; and
- (3) the faithful performance of duties in all respects.

In lieu of a bond in each case, an auctioneer may file a blanket bond covering all cases in which the auctioneer may act. A blanket bond shall be: (A) the expense of the auctioneer; (B) in favor of the United States of America; and (C) in an amount sufficient to cover the aggregate appraised value of all property to be sold.

(d) Report of Sale. The auctioneer shall file a report with the Clerk and serve a copy of the report on the Office of the U.S. Trustee and the case trustee, if any, within 30 days after the conclusion of the sale. The report of sale shall set forth:

- (1) the time, date, and place of sale;
- (2) the gross amount realized from the sale;
- (3) an itemized statement of commissions sought under this Rule and disbursements made, including the name of the payee and the original receipts or canceled checks, or copies thereof, substantiating the disbursements. If the canceled checks are not available at the time the report is filed, then the report shall so state, and the canceled checks shall be filed as soon as they become available. Where labor charges are included, the report shall specify the names of the persons employed, the hourly wage for each employee, and the number of hours worked by each employee;
- (4) where the auctioneer has a blanket insurance policy covering all sales conducted, an explanation of how the insurance expenses charged to the estate were allocated;
- (5) the sign-in sheet that lists the people who attended the sale;
- (6) the names of all purchasers at the sale;
- (7) the disposition of any items for which there was no bid;
- (8) the terms and conditions of sale read to the audience immediately prior to the commencement of the sale;
- (9) a statement of the manner and extent of advertising for the sale and the availability of the items for inspection prior to the sale;

- (10) the amount of sales tax collected; and
 - (11) such other information as the Court or the Office of the U.S. Trustee may reasonably request.
- (e) **Disposition of Proceeds of Sale.** Unless otherwise ordered by the Court, the proceeds of sale less the auctioneer's reimbursable expenses shall be turned over to the trustee or deposited in a separate interest-bearing account no later than 20 days from the date of sale. No compensation or commission may be paid to the auctioneer until approved by the Court as provided in paragraph (f) below. The Court also retains jurisdiction to review the auctioneer's reimbursable expenses for validity and reasonableness. In the event the Court determines that a portion of the expenses deducted from the proceeds of the sale is inappropriate or unreasonable, the auctioneer shall be required to return that portion to the trustee immediately.
- (f) **Application for Commissions and Expenses.** An auctioneer shall apply to the Court for approval of commissions and expenses on not less than 20 days notice as required by Bankruptcy Rule 2002. See also Vt. LBR 2002-1. That application will not be granted unless the report referred to in paragraph (d) of this Rule has been filed.

VT. LBR 6006-1. EXECUTORY CONTRACTS

Reserved

VT. LBR 6007-1. ABANDONMENT

Notice of Proposed Abandonment or Disposition of Property; Order Granting Abandonment. The Court will sign and enter an Order of Abandonment submitted by the trustee in conjunction with a Notice of Intent to Abandon as referenced in Bankruptcy Rule 6007 provided the notice: (a) clearly identifies the subject property; (b) provides satisfactory proof of the value of the property and of any liens or encumbrances properly perfected against the property; and (c) generally contains all the information that would be required in a motion to abandon so that the Court can make a determination as to whether the property is burdensome or of inconsequential value and benefit to the estate. The proposed Order of Abandonment must identify the property in the same terms as set forth in the Notice of Intent to Abandon, indicate that service has been properly effected, and affirm that no objections stating grounds for relief under 11 U.S.C. § 554(a) were filed within the time required under the applicable Bankruptcy Rules.

Vt. LBR 6008-1. REDEMPTION

Vt. LBR 6008-1. REDEMPTION

(a) **Joint Motions.** The signature of the debtor on a redemption agreement shall be deemed authorization for the creditor to file a joint motion for approval of the redemption agreement. A motion to approve a redemption agreement must include:

- (1) a copy of the redemption agreement;
- (2) a copy of the instruments creating and perfecting the security interest; and
- (3) a complete description of the property, including: the present location and condition of the property; the date of purchase; the original purchase price; the amount paid to date; the outstanding balance still due; and any other information necessary for the Court to make a determination of the appropriateness of the redemption request.

(b) **Debtor's Motion.** A motion for approval of a redemption agreement may be filed using the default procedure under Vt. LBR 9013-4. The Court shall have discretion to set the matter for hearing and require attendance by the creditor, the creditor's counsel, the debtor's counsel, and/or the debtor.

(c) **Required Hearing.** A motion for approval of an agreement to redeem property for payments totaling \$1,000 or more in principal, interest, and charges shall be set for hearing. The creditor's counsel and either the debtor or the debtor's attorney must attend the hearing if the redemption price is \$1,000 or more.

Vt. LBR 6070-1. TAX RETURNS & TAX REFUNDS

Tax Returns Due to Trustee in Chapter 11, 12 and 13 Cases. In cases filed under Chapters 11, 12 and 13, the debtor shall provide copies of all filed federal and state tax returns to the case trustee, or if there is no case trustee, then to the Office of the U.S. Trustee, at the time of filing with the Internal Revenue Service and State Department of Taxes from the date the bankruptcy case was filed until the bankruptcy case has been closed, dismissed or converted.

PART VII

Vt. LBR 7001-1. ADVERSARY PROCEEDINGS – GENERAL

Reserved

VT. LBR 7003-1. COVER SHEET

Reserved

VT. LBR 7004-1. SERVICE OF PROCESS

Reserved

VT. LBR 7004-2. SUMMONS

- (a) **Obtaining a Summons.** An attorney may download and print a summons to be served in connection with any adversary proceeding pending in this Court. The summons shall contain the electronic signature of the Clerk and shall have the same force and effect as if it had been individually executed in a non-electronic manner. See also Vt. LBR 7016-1(d).
- (b) **Serving a Summons.** Unless the Bankruptcy Rules provide otherwise, a summons must be served in the conventional manner. See Bankruptcy Rule 7004.

VT. LBR 7005-1. CERTIFICATE OF SERVICE

All certificates of service filed with the Clerk shall have attached a copy of the document served, or a sufficient description thereof, include a copy of the list used for service or a specific listing with the names and addresses of the parties served, and specify the method and date of service as to each party.

VT. LBR 7005-2. FILING OF DISCOVERY MATERIALS

Reserved

VT. LBR 7007-1. MOTION PRACTICE IN ADVERSARY PROCEEDINGS

Amendments to Pleadings or Motions. A party moving to amend a pleading or motion must attach a redlined version of the proposed amendment to the filing, clearly designating all additions and deletions. Any amendment, whether filed as a matter of course or upon a motion to amend, must reproduce the entire pleading or motion as amended and may not incorporate any prior filing by reference, except with leave of the Court.

VT. LBR 7008-1. CORE/NON-CORE DESIGNATION (COMPLAINT)

- (a) **Non-Core Proceedings.** In this District, the Bankruptcy Court may hear all non-core proceedings related to a case filed under the Bankruptcy Code.
- (b) **Lack of Consent to Bankruptcy Court's Entering Final Orders.** When the parties do not consent to the Bankruptcy Court's entry of final orders in

Vt. LBR 7016-1. PRE-TRIAL PROCEDURES

a non-core proceeding, the Bankruptcy Court may also, in addition to proposed findings of fact and conclusions of law, file recommendations concerning whether a review of the proceeding should be expedited and whether other proceedings in the bankruptcy case should be stayed pending the determination by the District Court of the non-core proceeding. The Bankruptcy Clerk shall serve copies of the Bankruptcy Court's proposed findings of fact and conclusions of law and recommendations, if any, to the parties.

- (c) **Objections to Proposed Findings of Fact and Conclusions of Law.** Within ten (10) days of the service of the proposed findings of fact and conclusions of law, any party to the adversary proceeding may file an objection with the Clerk. Failure to file an objection will be deemed consent to the entry of an order by the Bankruptcy Court directing that the proposed findings of fact and conclusions of law be made final. In the event of an objection, the Clerk shall transmit all relevant parts of the record to the District Court. The final order shall then be issued by the District Court.

Vt. LBR 7012-1. CORE/NON-CORE DESIGNATION (RESPONSIVE PLEADING)
Reserved

Vt. LBR 7016-1. PRE-TRIAL PROCEDURES

- (a) **Notice; Appearance.** Counsel for the plaintiff and counsel for the defendant will be notified of the case scheduling conference shortly after the expiration of the time period within which answers were due. All counsel and unrepresented parties are required to appear at the case scheduling conference set by the Court *unless*: (1) a proposed discovery plan is submitted timely; (2) the Court approves the plan prior to the conference date; and (3) the matter is removed from the Court's calendar. All counsel are required to attend final pre-trial conferences. If an attorney or a *pro se* party fails to appear at the pre-trial conference, or otherwise fails to abide by the requirements of this Rule or the scheduling order, the Court may take such action as it deems appropriate, including the imposition of sanctions or dismissal of the proceeding.
- (b) **Pre-Trial Statements.** A pre-trial statement should be filed jointly by the parties at least five (5) days before a trial is scheduled to begin. If the parties are not able to reach an agreement as to a joint pre-trial statement, then each party must file and serve his/her/its own pre-trial statement with an affirmation that the party has made diligent, good faith efforts to produce a joint pre-trial statement, but was unable to do so. All pre-trial statements shall comport with the Court's "Format for Pre-Trial Statements." See Appendix E.

- (c) **Telephone Participation in Pre-Trial and Status Conferences.** Parties may participate in pre-trial and status conferences by telephone if approved by the Court and scheduled with the Courtroom Deputy at least one (1) business day in advance.
- (d) **Case Scheduling Conference.** The Clerk will provide the plaintiff with an “Order on Pre-Trial Deadlines” upon the filing of the complaint. The plaintiff is responsible for serving the order, along with the summons and complaint, on each defendant. The Courtroom Deputy shall schedule the Bankruptcy Rule 7026(f) conference in a timely manner.

Vt. LBR 7023-1. CLASS ACTION

Reserved

Vt. LBR 7024-1. INTERVENTION

Reserved

Vt. LBR 7024-2. UNCONSTITUTIONALITY, CLAIM OF

Constitutionality. If at any time prior to the trial of an adversary proceeding that does not include the United States, an individual state, an agency, officer, or employee of either the state or federal government, a party draws into question the constitutionality of an Act of Congress or a state statute affecting the public interest, that party shall notify the Court in writing of the existence of the question and specifically identify the statute and the respects in which it is claimed to be unconstitutional so that the Court may comply with the requirements of 28 U.S.C. § 2403(a) and (b).

Vt. LBR 7026-1. DISCOVERY

- (a) **Initial Disclosure.** Pursuant to Bankruptcy Rule 7026, the provisions of Federal Rules of Civil Procedure Rule 26(a)(1) apply in this District unless the Court orders otherwise.
- (b) **Limits on Interrogatories.** No party shall serve any other party, at any one time or cumulatively, more than 25 written interrogatories, including all discrete sub-parts. Exceptions to this Rule may be granted by the Court only upon written motion showing good cause. Interrogatories should not be filed with the Clerk.
- (c) **Limits on Depositions.** No party shall take more than ten (10) depositions, whether upon oral examination under Bankruptcy Rule 7030 or upon written questions under Bankruptcy Rule 7031. Exceptions to this Rule

Vt. LBR 7026-1. DISCOVERY

may be granted by the Court only upon written motion showing good cause. Transcripts of depositions should not be filed with the Clerk.

- (d) **Requirement of a Writing.** All objections to interrogatories, depositions, requests, applications under Bankruptcy Rule 7037, and all motions and responses concerning discovery matters shall be in writing and recite with specificity the offending interrogatory, deposition, request, or application. If time does not permit the filing of a written motion, the Court may, in its discretion, waive this requirement.
- (e) **Objections to Discovery Process.** An objection to any interrogatory, deposition, request or application under Bankruptcy Rule 7037 shall be filed within 30 days after service of the offending interrogatory, deposition, request or application unless otherwise ordered by the Court. The filing of an objection shall not extend the time within which the objecting party must otherwise answer or respond to any discovery matter not specifically included in the objection.
- (f) **Mandatory Consultation Among Counsel.** In addition to the mandatory Bankruptcy Rule 7026(f) conference, counsel are encouraged to participate in non-court, pre-trial discovery conferences to decrease in every way possible the filing of unnecessary discovery motions. A motion concerning a discovery dispute shall not be filed until all counsel have explored the possibility of resolving the discovery matters in controversy. The Court will not consider any motion concerning a discovery matter unless the motion is accompanied by a statement of counsel that a good faith effort has been made by counsel to resolve the discovery matter at issue.
- (g) **Motion to Compel.** After a discovery request is objected to or not complied with in a timely manner, and if not otherwise resolved under paragraph (f), it is the responsibility of the party initiating discovery to place the matter before the Court in a timely manner. To compel an answer, production, designation or inspection, a motion must be filed under Bankruptcy Rule 7037. However, a party properly noticed of a deposition must appear and submit to the deposition unless a motion to quash has been granted.
- (h) **Other Discovery Motions.** Motions for protective orders pursuant to Bankruptcy Rule 7026(c) and motions to compel physical or mental examination, including Bankruptcy Rule 7035, shall comply with paragraph (f) above and Vt. LBR 9013-1 and Vt. LBR 9013-2.

Vt. LBR 7041-1. DISMISSAL OF ADVERSARY PROCEEDINGS

- (i) **Responses to Discovery.** All responses to discovery motions shall be filed within ten (10) days after service of such motions unless otherwise ordered by the Court.
- (j) **Compliance with Discovery Orders.** After the Court has ruled on a discovery motion, any response or answer, production, designation, inspection or examination required by the Court shall be done within ten (10) days after the entry of the order of the Court, oral or otherwise, unless otherwise ordered by the Court.
- (k) **Failure to Comply with Order.** Should a party fail to comply with an order of the Court concerning a discovery motion, it is the responsibility of the objecting party to place the matter before the Court by a proper motion for supplementary relief under Bankruptcy Rule 7037.
- (l) **Unnecessary Discovery Motions or Objections.** A party who presents the Court with unnecessary discovery motions or requests, or unwarranted opposition to proper discovery proceedings, may be subject to sanctions, including the imposition of costs and attorney fees.

Vt. LBR 7027-1. DEPOSITIONS & EXAMINATIONS (ADVERSARY PROCEEDINGS)
Reserved

Vt. LBR 7040-1. ASSIGNMENT OF ADVERSARY PROCEEDINGS
Reserved

Vt. LBR 7041-1. DISMISSAL OF ADVERSARY PROCEEDINGS

Condition for Voluntary Dismissal of a § 727 Complaint. A motion for voluntary dismissal of a complaint objecting to discharge must be accompanied by affidavits executed by the plaintiff(s) and the debtor(s) stating that no consideration has been promised or given to effect the withdrawal, or, if any consideration has been promised or given, the nature, terms, and amount thereof. All motions for voluntary dismissal shall be adjudicated at a court hearing, on notice to all creditors, unless the Court orders otherwise.

Vt. LBR 7052-1. FINDINGS & CONCLUSIONS
Reserved

Vt. LBR 7054-1. COSTS – TAXATION/PAYMENT
Reserved

Vt. LBR 7055-1. DEFAULT

(a) Entry of Default. A party seeking entry of default judgment, whether by the Clerk or by the Court, must first apply to the Clerk for an Entry of Default. To obtain entry of default, the applicant must file:

- (1) an application for the Clerk's entry of default;
- (2) an affidavit in support of the application for entry of default that includes:
 - (A) the date of issuance of the summons;
 - (B) a statement of whether the Court fixed a deadline for the filing of an answer or motion, and if not, whether the 30 (or 35) day limit applies;
 - (C) the date of the service of the complaint;
 - (D) the date of filing of the affidavit of service;
 - (E) a statement that no answer or motion has been received within the time limit fixed by the Court or by Bankruptcy Rule 7012(a);
 - (F) a statement that the party against whom judgment is sought is neither an infant, an incompetent person, nor in the military service;
 - (G) a statement that the judgment amount sought is justly due and owing and that no part thereof has been paid except as stated; and
 - (H) if applicable, a statement that any disbursement sought to be taxed has been made in the action or will necessarily be made or incurred; and
- (3) a proposed Clerk's Entry of Default.

Upon verification of the facts contained in the affidavit referred to in subparagraph (2) above, the Clerk will execute and file the Entry of Default.

(b) Entry of Judgment By the Clerk. When a party is entitled to judgment other than pursuant to 11 U.S.C. §§ 523 or 727, when the judgment sought by the party is for a sum certain (or for a sum which, by computation, can be made certain), and when the opposing party has failed to appear, the Clerk may enter a default judgment. The party seeking entry of default judgment by the Clerk must file the following:

- (1) an application for default judgment;
- (2) an affidavit of the amount due and of any costs and/or disbursements due;
- (3) a copy of the Entry of Default, obtained pursuant to paragraph (a) above; and
- (4) a proposed default judgment order.

If the party in default has appeared in the proceeding, application for entry of default judgment shall be made to the Court. See paragraph (c), below. (Note: In his discretion or when entry of default judgment by the Clerk is not permissible, the Clerk may present the application to the Court for its consideration.)

- (c) **Entry of Judgment By the Court.** A party seeking entry of default judgment by the Court, pursuant to Bankruptcy Rule 7055, as it incorporates Federal Rules of Civil Procedure Rule 55(b)(2), must file the following:

- (1) a motion for entry of default judgment;
- (2) an affidavit containing a statement of the damages being requested and the basis therefore;
- (3) a copy of the Entry of Default by the Clerk, entered pursuant to paragraph (a) above; and
- (4) a proposed default judgment order.

If the party against whom entry of judgment by default is sought has appeared in the action or the Court determines that evidence is necessary in order to fix the amount due, compute damages or establish the truth of any averment, the Court shall set a hearing.

Vt. LBR 7056-1. SUMMARY JUDGMENT – GENERALLY

(a) Summary Judgment Motions.

- (1) **Statement of Undisputed Facts.** In addition to the requirements of Vt. LBR 7056-2, a party moving for summary judgment shall file a separate, short, and concise statement of undisputed material facts with the motion for summary judgment. The movant's failure to submit this statement shall constitute grounds for denial of the motion.

Vt. LBR 7056-1. SUMMARY JUDGMENT – GENERALLY

- (2) **Opposition; Statement of Disputed Facts.** A party opposing a motion for summary judgment must file written opposition no more than 21 days after the motion is served. A separate, short, and concise statement of disputed material facts and a memorandum of law must accompany the opposition.
- (3) **Facts Admitted.** All material facts in the movant’s statement of undisputed facts are deemed to be admitted unless controverted by a statement of disputed material facts filed by the opposing party.
- (4) **Time for Filing.** Summary judgment motions must be filed by the date specified in the scheduling order.
- (b) **Tolling.** Although Bankruptcy Rule 7056(b) allows a defending party to move for summary judgment at any time, this does not toll the time within which to answer pursuant to Bankruptcy Rule 7012(b). Thus, a party filing a motion for summary judgment should also file a motion under Bankruptcy Rule 7012(b) or file a timely answer.
- (c) **Consideration and Ruling by the Court.** Nothing in this Rule shall require the Court to review portions of the record in considering a motion for summary judgment where the moving papers do not make reference to specific portions of the record. To expedite a decision or for other good cause, and on notice to all parties, the Court may rule on a motion for summary judgment before the expiration of the 21-day period ordinarily permitted for filing opposition papers.
- (d) **Special Notice Required to Pro Se Litigants.** Pursuant to Second Circuit case law, when a *pro se* litigant is served with a motion for summary judgment, he or she is entitled to a special notice that alerts him or her to the consequences of failing to respond to the motion for summary judgment. Therefore, in addition to serving a *pro se* party with a motion for summary judgment (together with all corresponding papers), a movant must also serve the *pro se* party with a special notice designed to inform the *pro se* party of the potential consequences of not responding to the movant’s motion, together with a reprint of Rule 56 of the Federal Rules of Civil Procedure (attached to the required special notice). See Vt. LBR App. F, “Notice to *Pro Se* Litigant Served With a Motion for Summary Judgment.”

(Note: When a *pro se* party moves for summary judgment, he or she may wish to review the special notice as well to better inform him or herself of the requirements of a motion for summary judgment.)

VT. LBR 7056-2. SUMMARY JUDGMENT – MOTION REQUIREMENTS

(a) Memorandum of Law; Response in Opposition; Reply; Oral Argument.

Each summary judgment motion shall be accompanied by a written memorandum of law and indicate whether oral argument is requested. Failure to submit a memorandum of law may be deemed sufficient cause to deny the motion. Unless otherwise ordered by the Court, each response in opposition to a motion for summary judgment shall be filed within 21 days of the filing of the motion and include a memorandum of law. The movant may file a reply memorandum within ten (10) days of the filing of the opposition. The reply shall assume familiarity with the movant's initial memorandum and the opposition, and shall be confined to addressing points within the scope of the opposition (including any evidentiary matter introduced by the opposing party) that were not addressed in the movant's initial memorandum. Memoranda of law shall comply with the requirements and restrictions set forth in Vt. LBR 9013-5(a).

- (b) Oral Argument.** Notwithstanding that a request for oral argument on a motion for summary judgment may have been made, the Court shall determine whether oral argument shall be presented in connection with each motion for summary judgment.

VT. LBR 7065-1. INJUNCTIONS

Reserved

VT. LBR 7067-1. REGISTRY FUND

Reserved

VT. LBR 7069-1. JUDGMENT – PAYMENT OF

Reserved

PART VIII

VT. LBR 8001-1. NOTICE OF APPEALS

Reserved

VT. LBR 8001-2. DISMISSAL OF APPEAL (VOLUNTARY)

Reserved

**VT. LBR 8001-3. ELECTION FOR DISTRICT COURT DETERMINATION OF
APPEAL**

Reserved

VT. LBR 8006-1. DESIGNATION OF RECORD ON APPEAL

VT. LBR 8002-1. TIME FOR FILING APPEAL

Reserved

VT. LBR 8003-1. MOTION FOR LEAVE TO APPEAL

Reserved

VT. LBR 8004-1. SERVICE OF NOTICE OF APPEAL

Reserved

VT. LBR 8005-1. STAY PENDING APPEAL

Reserved

VT. LBR 8006-1. DESIGNATION OF RECORD ON APPEAL

Docket References. Each party preparing a “Designation of Record on Appeal” must include a marked docket sheet indicating those documents contained in the record. The marked docket sheet will serve as an index for the Record on Appeal.

VT. LBR 8007-1. COMPLETION OF RECORD ON APPEAL

Prior to the transmission of the Record on Appeal, the Bankruptcy Court may review the record and verify the accuracy of the transcript of any order appealed.

VT. LBR 8007-2. TRANSMISSION OF RECORD ON APPEAL

Reserved

VT. LBR 8007-3. DOCKETING OF APPEAL

Reserved

VT. LBR 8007-4. RECORD FOR PRELIMINARY HEARING – APPEAL

Reserved

VT. LBR 8008-1. FILING PAPERS ON APPEAL

After the Clerk for the United States District Court for the District of Vermont has given notice to all parties of the date on which the appeal was docketed, all future pleadings in connection with the appeal shall bear the civil case number assigned by the District Court, in addition to the bankruptcy case number(s), and shall be filed only with the District Court Clerk.

VT. LBR 8008-2. SERVICE OF ALL PAPERS REQUIRED – APPEAL

Reserved

Vt. LBR 8008-3. MANNER OF SERVING PAPERS – APPEAL

Reserved

Vt. LBR 8008-4. PROOF OF SERVICE OF FILED PAPERS – APPEAL

Reserved

Vt. LBR 8009-1. TIME FOR FILING BRIEFS – APPEAL

Reserved

Vt. LBR 8009-2. TIME FOR FILING APPENDIX TO BRIEF – APPEAL

Reserved

Vt. LBR 8010-1. FORMS OF BRIEFS – APPEAL

Reserved

Vt. LBR 8010-2. REPRODUCTION OF STATUTES, ETC. – APPEAL

Reserved

Vt. LBR 8010-3. LENGTH OF BRIEFS – APPEAL

Reserved

Vt. LBR 8011-1. MOTION, RESPONSE, REPLY – APPEAL

Reserved

Vt. LBR 8011-2. DETERMINATION OF PROCEDURAL MOTION – APPEAL

Reserved

Vt. LBR 8011-3. DETERMINATION OF MOTION – APPEAL

Reserved

Vt. LBR 8011-4. EMERGENCY MOTION – APPEAL

Reserved

Vt. LBR 8011-5. POWER OF SINGLE JUDGE TO ENTERTAIN MOTIONS

Reserved

Vt. LBR 8012-1. ORAL ARGUMENT – APPEAL

Reserved

Vt. LBR 8013-1. DISPOSITION OF APPEAL

Reserved

Vt. LBR 8014-1. COSTS – APPEAL

Reserved

Vt. LBR 9001-1. DEFINITIONS

Vt. LBR 8015-1. MOTION FOR REHEARING – APPEAL

Reserved

Vt. LBR 8016-1. ENTRY OF JUDGMENT BY CLERK OF DISTRICT COURT

Reserved

Vt. LBR 8016-2. NOTICE OF ORDER OR JUDGMENT – APPEAL

Reserved

Vt. LBR 8016-3. RETURN OF RECORD ON APPEAL

Reserved

Vt. LBR 8017-1. STAY PENDING APPEAL TO COURT OF APPEALS

Reserved

**Vt. LBR 8018-1. LOCAL RULES OF CIRCUIT JUDICIAL COUNCIL OR
DISTRICT COURT**

Reserved

Vt. LBR 8019-1. SUSPENSION OF PART VIII OF THE BANKRUPTCY RULES

Reserved

Vt. LBR 8020-1. DAMAGES AND COSTS FOR FRIVOLOUS APPEAL

Reserved

**Vt. LBR 8070-1. DISMISSAL OF APPEAL BY COURT FOR NON-
PROSECUTION**

Reserved

PART IX

Vt. LBR 9001-1. DEFINITIONS

The terms “documents,” “papers” and “pleadings” as used in these Rules include those filed electronically and non-electronically.

Vt. LBR 9003-1. *EX PARTE* CONTACT

No attorney, accountant, party in interest, or any of their employees shall engage in any *ex parte* meetings or communications with the Bankruptcy Judge or with Chambers’ staff or with the Clerk or the Clerk’s Office staff concerning any disputed issue of fact or law in a particular case, matter or proceeding. This Rule does not limit or prohibit the filing of *ex parte* emergency motions or

meetings regarding administrative matters or *ex parte* applications contemplated by the Bankruptcy Code, the Bankruptcy Rules or these Local Rules.

Vt. LBR 9004-1. PAPERS – REQUIREMENTS OF FORM
Reserved

Vt. LBR 9004-2. CAPTION – PAPERS, GENERAL
Reserved

Vt. LBR 9006-1. TIME PERIODS

Unless otherwise specified in these Local Rules, the term “days” means calendar days.

Vt. LBR 9009-1. FORMS
Reserved

Vt. LBR 9010-1. ATTORNEYS – NOTICE OF APPEARANCE
Reserved

Vt. LBR 9010-2. POWERS OF ATTORNEY

See 14 V.S.A. § 3501 *et seq.*

Vt. LBR 9011-1. ATTORNEYS – DUTIES AND RETENTION OF DOCUMENTS

- (a) **Acceptance of Employment.** An attorney who accepts employment by a debtor in connection with the filing of a case under the Bankruptcy Code has the duty to render complete and competent services, as set forth in Vt. LBR 2016-1.
- (b) **Attorney’s Duty to Retain Certain Originals of Electronically Filed Documents.** The debtor’s attorney must retain paper originals of all documents that are filed electronically and require original signatures (other than that of the party registered to use CM/ECF) for five (5) years. The Clerk will retain verifications of petitions, statements and schedules, and Chapter 11 operating reports for five (5) years. On request or order of this or any other Court, the party registered to use CM/ECF and retaining the documents must provide original documents for review.
- (c) **Electronic Signatures and Identification.** The user log-in and password required to submit documents to the CM/ECF System serve as the signature of the party registered to use CM/ECF on all electronic documents filed

Vt. LBR 9011-1. ATTORNEYS – DUTIES AND RETENTION OF DOCUMENTS

with the Court. They also serve as a signature for purposes of Bankruptcy Rule 9011, as well as all other Bankruptcy Rules, these Local Rules, and any other purpose for which a signature is required in connection with proceedings before the Court. Electronically filed documents must set forth the attorney's name, current office address, telephone number, fax number, e-mail address, and the name of the party the attorney is representing. In addition, the name of the party registered to use CM/ECF under whose login and password the document is submitted must be preceded by an "/s/" and then typed in the space where the signature would otherwise appear (e.g., /s/ John Doe).

- (d) Unauthorized Use of Password Prohibited.** No party registered to use CM/ECF or other person may knowingly permit or cause to permit a password to be used by anyone other than an authorized agent of the party registered to use the CM/ECF System.
- (e) Signatures of Multiple Persons.** When a document requires the signature of more than one party, the filer may:

 - (1) file a scanned document containing all necessary signatures;
 - (2) identify the parties whose signatures are required, followed by each party filing a document evidencing said consent within two (2) business days thereafter;
 - (3) identify the parties whose signatures are required, followed by each party creating a docket entry noting the party's consent (a/k/a "e-consent") within two (2) business days thereafter;
 - (4) identify the parties whose signatures are required and have a combination of subparagraphs (1) through (3) followed by the parties (such that each party's signature is represented) within two (2) business days thereafter; or
 - (5) provide the required signatures in any other manner approved by the Court.
- (f) Consent.** Consent must be made in an affirmative fashion; it is not sufficient for one party to represent that another party consents to a matter. A party may consent in any manner described in paragraph (e) above.
- (g) Fax Signatures.** The faxed signature of a party on a document received for filing with the Court shall serve as an original signature for purposes of Bankruptcy Rule 9011, all other Bankruptcy Rules, these Local Rules and

any other purpose for which a signature is required in connection with proceedings before the Court. Documents fax filed by an attorney must set forth the attorney's name, address, telephone number, fax number, and e-mail address. In addition, any other signatory must be identified, at a minimum with his/her name typed or printed out below his/her signature.

- (h) **Filer's Duty to Retain Certain Originals of Fax Filed Documents.** The party filing documents by fax must retain the originals of all documents that are filed by fax and that require original signatures (other than the signatures of attorneys admitted to practice in this Court) for five (5) years. On request or order of this or any other Court, the fax filing party must provide original documents for review.

VT. LBR 9011-2. PRO SE PARTIES

Pro Se Designation of Address. Unless the Court orders otherwise, parties not represented by an attorney shall sign all papers and state their mailing address, residence address, telephone number, fax number (if any), and e-mail address (if any) on all documents filed with the Clerk.

VT. LBR 9011-3. SANCTIONS

Reserved

VT. LBR 9011-4. SIGNATURES

- (a) **Signing of Papers.** All documents, motions, pleadings and other papers that are submitted for filing shall be signed by an attorney of record in the attorney's own name or, if there is no attorney, by the party, except that the petition, schedules and statements shall be signed by the debtor(s).
- (b) **Electronic Signatures.** An attorney will use "/s/ [attorney's name]" (e.g., /s/ John Doe) when filing documents electronically. This shall constitute the signature of the attorney for purposes of Bankruptcy Rule 9011. The attorney or party who files the document must retain the original signed copy of the filing for at least five (5) years. The original Declaration REF signed under penalty of perjury relating to the petition, schedules and statements, the original Chapter 11 operating reports, and any amendment to any of these types of documents shall be retained by the Clerk for a minimum of five (5) years as set forth in Vt. LBR 5003-1(b). Any password required for electronic filing shall be used only by the attorney to whom the password is assigned and authorized members and employees of the attorney's firm. The attorney shall be responsible for all consequences that

VT. LBR 9013-1. MOTION PRACTICE – GENERALLY

flow from documents filed under his or her electronic signature, as if he or she signed them.

VT. LBR 9013-1. MOTION PRACTICE – GENERALLY

- (a) **Form of Motion.** All motions for relief, including objections to claims, shall be in writing, except those made during a hearing or trial. Motions must state specific grounds for relief and cite the applicable statute or other authority justifying the relief sought. See also Vt. LBR 7007-1 (regarding amendments of pleadings).
- (b) **Affidavits.** Affidavits in support of a motion must be filed with the motion if the motion seeks a finding of certain facts or a resolution of factual issues.
- (c) **Mandatory Consultation of Counsel and Stipulated Motions.** Any party filing a motion that is not *ex parte* must certify in the motion that a good faith attempt has been made to obtain a stipulation to the relief sought or some other agreeable resolution prior to filing the motion. If a stipulation is obtained: (1) the word “Stipulated” shall be included in the document title; (2) a statement of consent shall be included in the body of the motion; and (3) the stipulating party shall affirmatively consent to the motion, see Vt. LBR 9011-1(f).
- (d) **Proposed Orders.** Each motion filed and served shall include a proposed order for the Court’s consideration. See also Vt. LBR 9072-1(b). The court may sign and enter the proposed order as filed, or may modify the proposed order, or draft a new order. Counsel should not presume that if relief is granted the order entered is identical to the proposed order filed.
- (e) **Proposed Order with Consent.** A proposed order with consent that resolves the motion may be submitted up to one (1) business day prior to the hearing date.

VT. LBR 9013-2. HEARINGS – ON MOTIONS GENERALLY

- (a) **Scheduling a Hearing on a Motion.** It is the responsibility of the moving party to schedule a hearing on any routine, non-evidentiary motion and to serve notice of the hearing. A party may use either the conventional noticing procedure, see Vt. LBR 9013-3, or, if applicable and desired, the Court’s default noticing procedure, see Vt. LBR 9013-4. (Note: All other hearings, evidentiary matters, pre-trial conferences and scheduling will be scheduled by the Clerk’s Office. See Vt. LBR 5070-1.)

- (b) **Routine, Non-Evidentiary Motions.** The Court designates the following to be routine, non-evidentiary motions:
- (1) **In a Main Case.** Unless otherwise directed by the Court or as provided for in these Local Rules (e.g., a request for an emergency hearing), all motions in a main case that do not require the presentation of evidence shall be considered routine, non-evidentiary motions. (Note: Although motions for relief from stay are considered evidentiary, they are routine; therefore, a movant shall treat a motion for relief from stay as routine and schedule a hearing, *except* if the movant intends to present evidence. In such an instance, refer to Vt. LBR 4001-1(e) for directions on how to proceed.).
 - (2) **In an Adversary Proceeding.** All motions in an adversary proceeding shall be considered non-routine *except for*: (A) motions to compel; (B) motions to continue or to expedite; (C) motions for sanctions; (D) motions to seal or to request in-camera review; (E) motions to withdraw as counsel for the debtor; and (F) those motions that can be scheduled using the Court’s default noticing procedure, see Vt. LBR 9013-4. The Clerk’s Office will set or direct the setting of hearings on all motions other than those itemized in this subparagraph. See also Vt. LBR 9013-2(c)(3)(C) below.
 - (c) **Form of Hearing Notice.** For all routine, non-evidentiary motions, the moving party shall prepare a hearing notice (colloquially referred to as a “Notice of Motion”) specifying: (1) the relief sought; (2) the hearing date and time; (3) the site location; and (4) the response deadline. See Vt. LBR 9013-3 (providing guidelines for noticing a hearing under the conventional procedure); see also Vt. LBR 9013-4 (providing guidelines for noticing a hearing under the default procedure); see also Appendices G-1 and G-2 (providing examples of acceptable hearing notices).
 - (1) **Hearing dates/times.** The upcoming court calendar dates and designated times for hearings are posted on the Court’s website at <http://www.vtb.uscourts.gov>, or may be obtained by contacting the Courtroom Deputy at (802) 776-2010. (Note: The Court has specific days when it hears: (A) Chapters 7 and 11 matters; (B) Chapter 7 matters only; and (C) Chapters 12 and 13 matters, all of which are designated on the Court’s calendar. Unless Court approval is obtained in advance, based on exigent circumstances, movants should schedule matters accordingly.).

Vt. LBR 9013-2. HEARINGS – ON MOTIONS GENERALLY

- (2) **Site Location.** Matters may be scheduled to be heard at either the Rutland Bankruptcy Court site or the Bankruptcy Court’s remote site at the Federal Building in Burlington. All location determinations shall be based on where the § 341 meeting of creditors is (or was) scheduled (unless otherwise agreed between the interested parties or due to exigent circumstances as determined by the Court), as well as mutual timing concerns of the participants.
- (3) **Response Deadline; Mandatory Language.**
- (A) For hearings noticed under the Court’s conventional procedure, see Vt. LBR 9013-3(b)(2) for instructions regarding response deadlines and see Vt. LBR 9013-3(b)(3) for instructions regarding mandatory language;
- (B) For hearings noticed under the Court’s default procedure, see Vt. LBR 9013-4(c)(2) for instructions regarding response deadlines and see Vt. LBR 9013-4(c)(3) for instructions regarding mandatory language;
- (C) In non-routine matters, interested parties shall have ten (10) days’ response time unless a different response time is permitted by the Bankruptcy Rules, these Local Rules, or set by the Court. See also Bankruptcy Rule 9006(f).
- (d) **Minimum Notice.** Unless a greater period is required by the Bankruptcy Code or the Bankruptcy Rules, see, e.g., Bankruptcy Rule 2002, notice must be given:
- (1) if served personally, by fax or by e-mail, at least twelve (12) days before the hearing date; or
- (2) if served by first class mail, postage prepaid, at least fifteen (15) days before the hearing date.
- (e) **Multiple Motions.** Multiple motions in the same case are to be scheduled in the time frame that corresponds to the primary motion.
- (f) **Attendance at Hearings.** A party who initiates or opposes a motion or application who later does not intend to actively pursue or oppose the same shall immediately notify all counsel of record, *pro se* parties, and the Clerk, so that the Court, counsel, and any *pro se* parties are not required to devote unnecessary attention to the matter or to appear in court. Unless excused by the Court, the failure of any party to attend a duly noticed hearing shall be

Vt. LBR 9013-3. HEARINGS – CONVENTIONAL PROCEDURE

deemed either a waiver of the pleading, motion, objection or other response, or consent to the sustaining or granting of relief sought by the attending party and may be grounds for the imposition of sanctions.

- (g) **Stipulations.** Where: (1) all parties entitled to notice of a hearing have been served with a motion or request for relief; (2) all parties in interest stipulate to the motion or request for relief; and (3) the Bankruptcy Code or Bankruptcy Rules do not mandate that an actual hearing be held prior to the Court’s ruling on the motion or request for relief, the movant is relieved from filing a notice of hearing.
- (h) **Continuances.** Where a party files an *unstipulated* motion to continue a scheduled hearing, the Court shall schedule a hearing on the motion to continue for a date and time before or at the same time as the hearing on the underlying motion. The hearing on the motion to continue and the underlying motion shall proceed unless an order granting the motion to continue is entered before the time set for the hearing on the underlying motion.

Vt. LBR 9013-3. HEARINGS – CONVENTIONAL PROCEDURE

- (a) **Meaning of “Conventional Procedure.”** When a party seeks relief under the Bankruptcy Code and/or the Bankruptcy Rules and schedules a hearing on a motion pursuant to Vt. LBR 9013-2(a), and where either the Court’s default procedure (under Vt. LBR 9013-4) is not available or the party chooses not to use the default procedure, the Court shall hold a hearing on the party’s motion. This mechanism for obtaining relief shall be referred to as the “conventional procedure.”
- (b) **Form of Hearing Notice.** In addition to the requirements set forth in Vt. LBR 9013-2(c) and (d), the following items shall be incorporated into each “Notice of Motion” utilizing the conventional procedure:
 - (1) **Title of Notice.** The title of the hearing notice shall be “NOTICE OF MOTION;”
 - (2) **Response Deadline.** The deadline for filing responses to a motion scheduled for a hearing utilizing the conventional procedure shall be no later than three (3) business days before the hearing date. (Note: This three-day period can be included within the requisite notice period.);
 - (3) **Mandatory Language.** The following language, in bold and conspicuous print, must be included in the notice:

VT. LBR 9013-4. HEARINGS – DEFAULT PROCEDURE

A **HEARING ON THE MOTION** and any responses **will be held** at [time] on [date] at the following location: [indicate Rutland or Burlington location].

IF YOU OPPOSE THE MOTION, you are encouraged to file a written opposition with the Clerk of the Court, **on or before 4:00 P.M. on [a date that is no less than three (3) business days before the hearing date]**. If you file a written opposition, **a copy must also be served on** the Moving Party, the Debtor, the Debtor’s counsel, the United States Trustee, the Case Trustee, if any, and in a Chapter 11 case, the Creditors’ Committee and its counsel, or if no committee is appointed, then upon the 20 largest unsecured creditors. Addresses for those parties are set forth below.

(Note: All notices of hearings under Vt. LBR 9013-3 must be in substantial compliance with Appendix G-1.)

VT. LBR 9013-4. HEARINGS – DEFAULT PROCEDURE

- (a) **Meaning of “Default Procedure.”** Certain requests for relief under the Bankruptcy Code and/or the Bankruptcy Rules may be determined without a hearing provided that an opportunity for a hearing is presented to parties entitled to notice of a hearing. Under this procedure, if a party files a timely opposition, the Court shall hold a hearing on the date designated on the notice, unless the Court decides, in its sole discretion, that no hearing is necessary and enters an order prior to the hearing date. If no opposition is filed timely, the Court may enter an order without a hearing. However, if an order has not been entered before the hearing date, the scheduled hearing shall proceed. *The default procedure is optional.*
- (b) **Relief Available Through Use of the Default Procedure.** The default procedure may be used for applications or motions seeking the following relief *only*:
- (1) Abandonment of Property (11 U.S.C. § 554(b));
 - (2) Allowance of Administrative Expenses Other Than Professional Fees (11 U.S.C. § 503(b));
 - (3) Approval of a Settlement in an Adversary Proceeding or Contested Matter (Bankruptcy Rule 9019);
 - (4) Assumption or Rejection of Executory Contract (11 U.S.C. § 365);

- (5) Avoidance of a Judicial Lien or Non-Purchase Money Security Interest (11 U.S.C. § 522(f));
- (6) Change of Venue (28 U.S.C. § 1412);
- (7) Claims Objections (11 U.S.C. § 502(b));
- (8) Compensation, Application for (11 U.S.C. §§ 330, 331);
- (9) Conversion of a Case (11 U.S.C. §§ 706, 1112(b), 1208, 1307);
- (10) Dismissal of a Case (11 U.S.C. §§ 707, 1112(b), 1208, 1307);
- (11) Dismissal for Failure to Pay Filing Fee (Bankruptcy Rule 1006(a));
- (12) Examination of Any Entity (Bankruptcy Rule 2004);
- (13) Extending Time to Assume or Reject a Nonresidential Lease (11 U.S.C. § 365(d)(4));
- (14) Extending Time to File Chapter 11 Plan and Disclosure Statement (11 U.S.C. § 1121(d));
- (15) Extending Time to File Complaint (Bankruptcy Rules 4004(b), 4007(c));
- (16) Extending Time to File Chapter 12 Plan (11 U.S.C. § 1221);
- (17) Extending Time to Pay Filing Fee (Bankruptcy Rule 1006(b));
- (18) Final Decree in Chapter 11 Case (Bankruptcy Rule 3022);
- (19) Hardship Discharge (11 U.S.C. §§ 1228(b) and 1328(b));
- (20) Lease of Property (11 U.S.C. § 363(b)(1));
- (21) Modify Plan, Post-Confirmation (11 U.S.C. §§ 1229, 1329);
- (22) Objection to Claimed Exemption (Bankruptcy Rule 4003(b));
- (23) Obtaining Credit (11 U.S.C. § 364(b), (c) or (d));
- (24) Pro Hac Vice Admission, Application for;
- (25) Redeeming Property (11 U.S.C. § 722);

Vt. LBR 9013-4. HEARINGS – DEFAULT PROCEDURE

- (26) Relief from Stay (11 U.S.C. § 362(d));
- (27) Relief from Stay of Action Against Co-Debtor (11 U.S.C. § 1301);
- (28) Reopening a Case (Bankruptcy Rule 5010);
- (29) Sale of Property (11 U.S.C. § 363(b)(1));
- (30) Substitution of Counsel; or
- (31) Turnover of Property to the Trustee (11 U.S.C. § 542).

(Note: If a party inadvertently notices a hearing under the default procedure seeking relief that cannot be sought under this procedure, the Court will hold the hearing whether or not any opposition has been filed.)

(c) Form of Hearing Notice. In addition to the requirements set forth in Vt. LBR 9013-2(c) and (d), the following items shall be incorporated into each “Notice of Motion” filed under the default procedure:

- (1) **Title of Notice.** The title of the notice shall be “NOTICE OF MOTION UNDER DEFAULT PROCEDURE;”
- (2) **Response Deadline.** The deadline for filing responses to a motion scheduled for a hearing utilizing the default procedure shall be no later than eight (8) days before the hearing date. (Note: This eight-day period is *in addition to* the requisite notice period.);
- (3) **Mandatory Language.** The following language, in bold and conspicuous print, must be included in the notice:

IF YOU OPPOSE THE MOTION, you must file a written opposition with the Clerk of the Court, **on or before 4:00 P.M. on [a date that is no less than eight (8) days prior to the hearing date]**. **A copy must also be served on** the Moving Party, the Debtor, the Debtor’s counsel, the United States Trustee, the Case Trustee, if any, and in a Chapter 11 case, the Creditors’ Committee and its counsel, or if no committee is appointed, then upon the 20 largest unsecured creditors. Addresses for those parties are set forth below.

IF AN OPPOSITION IS TIMELY FILED, the Court will hold a hearing on the Motion and any opposition at [time] on [date] at the following location: [indicate Rutland or Burlington]

location], unless the Court deems no hearing is necessary and enters an order prior to the time set for hearing.

IF NO OPPOSITION IS TIMELY FILED, the Court **may** deem the matter unopposed and grant the motion without further hearing. Note: If an order has not been entered before the hearing date, the hearing shall proceed.

(Note: All notices of hearings under Vt. LBR 9013-4 must be in substantial compliance with Appendix G-2.)

VT. LBR 9013-5. BRIEFS & MEMORANDA OF LAW

- (a) **Memoranda of Law.** Each motion shall be supported by a memorandum of law, except as provided in paragraph (b) below. A memorandum shall be succinct, shall not exceed 15 pages in length without prior leave of the Court, shall include a concise statement of each basis for the pleading with relevant citations, and may be either a part of or a supplement to the motion. A memorandum supporting an opposition to a motion shall be filed within ten (10) days after service of the motion, or as otherwise directed by the Court, and shall not exceed 15 pages in length, without prior leave of the Court. If time permits, a reply memorandum may be filed within five (5) days after service of the memorandum opposing the motion and shall not exceed five (5) pages in length, without prior leave of the Court. Parties who cite authority not generally available on WESTLAW shall provide a copy of each to the Court. See also Vt. LBR 7056-2 (providing the special requirements applicable when a memorandum of law is filed in support of a motion for summary judgment).
- (b) **Motions Not Requiring Memoranda of Law.** Unless otherwise directed by the Court, memoranda of law are not required for the following motions:
- (1) to obtain an extension of time, provided that the request is made before the expiration of the period originally prescribed by applicable rule, statute, order, or as extended by previous order;
 - (2) to continue a pre-trial conference, hearing, motion, or trial;
 - (3) to demand a more definite statement;
 - (4) to waive the debtor's appearance at the § 341 meeting of creditors;
 - (5) to amend a petition, schedules and/or statements; or

Vt. LBR 9013-6. SERVICE AND CERTIFICATE OF SERVICE

(6) to effect a substitution of parties.

Vt. LBR 9013-6. SERVICE AND CERTIFICATE OF SERVICE

(a) **Service Generally.** The movant must file the appropriate Notice of Motion and all motion papers with the Clerk, prior to or simultaneous with the service of the motion, and file a certificate of service promptly thereafter. All parties entitled to notice under the Bankruptcy Rules must be served. At a minimum, a party shall serve copies of its papers upon all opposing counsel, the Office of the U.S. Trustee, and the case trustee, if any, and shall file a certificate of service with the Clerk.

(b) Service of Documents Electronically Filed:

(1) **Notice of Electronic Filing.** Whenever a pleading or other paper is filed electronically, the CM/ECF System will automatically generate a “Notice of Electronic Filing” by electronic means at the time of docketing.

(2) **Service on Registered Users Consenting to Electronic Service.** If the recipient of an electronic filing is a registered user who has consented to electronic service and notification in CM/ECF, the system’s automatic transmission of the Notice of Electronic Filing shall be considered equivalent to service of the pleading or other paper by first class mail, postage prepaid.

(3) **Service on Registered Users Not Consenting to Electronic Service and All Other Entities.** All other parties, including registered users who have not consented to electronic service and notification, shall be served with a paper copy of the electronically filed pleading or other document in accordance with the Bankruptcy Rules and these Local Rules.

(c) **Service by E-Mail.** In addition to all registered users who consent to electronic service and notification, any entity may register with the Clerk to accept service and notification of pleadings and documents by e-mail where the pleadings or other documents are transmitted as an attachment. Once the Clerk has been notified of the party’s consent, transmission of the e-mail with attachments to that party shall be considered equivalent to service of the pleadings or other documents by first class mail, postage prepaid, except that if served by e-mail, three (3) additional days shall not be added to a prescribed time period. Cf., Bankruptcy Rule 9006(f); see also Vt. LBR 9013-2(d)(1).

(d) Clerk's List of Entities Who Have Consented to Service by E-Mail.

Within each case, the Clerk maintains a list of all entities and attorneys who will accept service by e-mail and their e-mail addresses. This information is available through PACER or CM/ECF.

VT. LBR 9014-1. CONTESTED MATTERS

(a) – (d) *Reserved*

(e) Attendance of Witnesses.

- (1) **Court Designated Evidentiary Hearing.** An “evidentiary hearing” is a hearing at which witnesses are called to testify. The Court may schedule an evidentiary hearing in any matter. In such an instance, at least five days prior to the hearing, or any shorter period as the Court may set or approve, each party to the evidentiary hearing shall file with the Court, and serve upon the other interested parties, a list of witnesses each party intends to call to testify. See subparagraph (2) below for required content of list; see also Vt. LBR App. H.

(Note: Unless so designated on the Court’s calendar, hearings are *not* evidentiary hearings. The exception is final hearings on motions for relief from stay, which are evidentiary hearings per Vt. LBR 4001-1(d). See also Vt. LBR 9013-2(b)(1). Also, while a confirmation hearing in which an objection is filed is treated as a contested matter under the Bankruptcy Rules, the Court shall continue its practice of treating the initial hearing on confirmation as a hearing of legal argument or as a status conferences. Any evidentiary hearing necessitated by an objection will be set for a later date. In such an instance, the Court shall direct whether a Rule 9014(e) Notice of Evidentiary Hearing is required.).

- (2) **How to Request an Evidentiary Hearing.** When a party seeks to schedule an evidentiary hearing, that party (hereinafter, the “requesting party”) shall contact the Courtroom Deputy to schedule the hearing. Thereafter, the requesting party shall file with the Court, and serve upon all parties in interest, a Rule 9014(e) Notice of Evidentiary Hearing. The Rule 9014(e) Notice shall be filed at least ten (10) days before the hearing, or such shorter time as the Court directs, and shall include:

- (A) the time and date of the scheduled hearing (set by the Courtroom Deputy);

Vt. LBR 9014-1. CONTESTED MATTERS

- (B) the matter or motion that is the subject of the hearing;
- (C) the amount of time that has been allocated for the hearing;
- (D) whether the requesting party has coordinated the request for an evidentiary hearing with opposing counsel and/or parties in interest;
- (E) the witness(es) the requesting party will call to testify;
- (F) the response deadline to the Notice (three (3) business days before the hearing);
- (G) any other information the requesting party believes is relevant to the request for the evidentiary hearing; and
- (H) whether the evidentiary hearing is being held in lieu of a previously scheduled hearing.

See Vt. LBR App. H, “Rule 9014(e) Notice of Evidentiary Hearing”.

- (3) **Additional Time and/or Witness(es).** If a party in interest seeks additional time beyond that which has been provided for the evidentiary hearing and/or intends to call additional witnesses to testify at the evidentiary hearing, that party must contact the Courtroom Deputy at least five (5) days prior to the hearing to determine if and/or when additional time is available for the hearing. Additionally, such party must file and serve a supplemental Rule 9014(e) Notice of Evidentiary Hearing at least three (3) days prior to the evidentiary hearing.
- (4) **Subpoena.** While there is an obligation to amend the Rule 9014(e) Notice of Evidentiary Hearing if the list of intended witnesses changes, the disclosure of intended witnesses is not a guarantee upon which opposing counsel should rely when determining whether to issue subpoenas.
- (5) **Stipulation.** Parties may, and are encouraged to, file a stipulated Rule 9014(e) Notice of Evidentiary Hearing. (Note: Parties are still required to coordinate scheduling of an evidentiary hearing with the Courtroom Deputy, regardless whether the hearing was requested by one party or on stipulation of multiple parties.).
- (6) **Court’s Discretion.** The scheduling, noticing, approval, and scope of a Rule 9014(e) evidentiary hearing is within the sole discretion of the Court.

VT. LBR 9015-1. JURY TRIAL

- (a) **Applicability of Certain Federal Rules of Civil Procedure.** Federal Rules of Civil Procedure 38, 39, 47-51, and 81(c), insofar as they apply to jury trials, apply in all cases and proceedings in this Court, except that a demand made under Federal Rule 38(b) shall be filed in accordance with Bankruptcy Rule 5005.
- (b) **Consent to Have Jury Trial Conducted by Bankruptcy Court.** If the right to a jury trial applies and a timely demand has been filed under Federal Rule 38(b), the parties may consent to have the jury trial conducted by the Bankruptcy Court pursuant to 28 U.S.C. § 157(e). The parties to the action must jointly or separately file a statement of consent no later than two (2) business days before the first pre-trial conference in an adversary proceeding and in all other matters and proceedings upon reasonable demand. Failure to affirmatively file consent to a jury trial shall be deemed to be a lack of consent.
- (c) ***Voir Dire.*** Unless otherwise ordered, interrogation of prospective jurors on *voir dire* examination shall be conducted by the Court. The Court, in its discretion, may permit the parties to submit questions in writing in advance of jury selection or orally at a side bar during *voir dire*.
- (d) **Time for Filing a Demand for Jury Trial after Removal.** If at the time of removal all necessary pleadings have been served, a party entitled to a jury trial must interpose a jury demand in this Court within 20 days after the “Notice of Removal” is filed. A party who has expressly made demand for trial by jury prior to removal, in accordance with federal or state law, need not make a demand after removal. The failure of a party to make a jury demand as directed under this subparagraph constitutes a waiver of trial by jury.

VT. LBR 9016-1. SUBPOENAS
Reserved

VT. LBR 9016-2. WITNESSES
Reserved

VT. LBR 9019-1. SETTLEMENTS & AGREED ORDERS
Reserved

VT. LBR 9019-2. ALTERNATIVE DISPUTE RESOLUTION

VT. LBR 9019-2. ALTERNATIVE DISPUTE RESOLUTION

- (a) **Generally.** The Court encourages the use of Alternative Dispute Resolution (“ADR”) where the parties believe the issues may be resolved through a non-adversarial process. The Court may direct the use of ADR in cases it deems to be well-suited to non-judicial resolution. The Courtroom Deputy will coordinate ADR in bankruptcy matters.
- (b) **The District Court’s Early Neutral Evaluation Process and Goals.** The provisions of the District Court Local Rules regarding Early Neutral Evaluation (“ENE”) shall apply in Bankruptcy Court, subject to modifications necessary to ensure a specialized panel and requirements appropriate to bankruptcy issues. Upon consent of all parties, or upon order of the Court, an adversary proceeding or contested matter will be submitted to ENE, and the deadline for completing the ENE process shall be set forth in the Scheduling Order. The Courtroom Deputy will coordinate ENE in bankruptcy matters.

VT. LBR 9020-1. CONTEMPT

Reserved

VT. LBR 9021-1. MEMORANDA, JUDGMENTS & ORDERS

Copies of all memoranda of decision, all judgments and orders entered after evidentiary hearings, and all orders which set forth a detailed explanation of a ruling, shall be posted on the Court’s website at <http://www.vtb.uscourts.gov>. These documents are available to the public and may be searched by word, name or statute. Parties may cite to the Court’s memoranda of decision and orders found on the Court’s website even if designated as “Not for Publication.” In such an instance, parties are relieved from providing the Court with copies of such authority.

VT. LBR 9021-2. ORDERS – EFFECTIVE DATE

Reserved

Vt. LBR 9022-1. JUDGMENTS & ORDERS – NOTICE OF

All orders, decrees and judgments of the Court will be filed electronically and in accordance with these Local Rules, which will constitute entry on the docket kept by the Clerk pursuant to Bankruptcy Rules 5003 and 9021. See also Vt. LBR 9036-1(a).

Vt. LBR 9023-1/Vt. LBR 9024-1. MOTIONS TO RECONSIDER

Any motion captioned as a “Motion to Reconsider” or the like shall be treated as a motion either to alter or amend a judgment or as a motion for relief from a judgment or order. Such a motion shall set forth the grounds alleged to satisfy the criteria set forth in Bankruptcy Rules 9023 or 9024 including the time period for filing the motion. The Court shall set a hearing on the motion if it determines a hearing is necessary.

Vt. LBR 9027-1. REMOVAL/REMAND

- (a) **Notice.** The party filing a “Notice of Removal” shall give written notice of removal to all adverse parties and shall file a copy of the Notice with the clerk of the court from which the civil action or proceeding was removed. This Notice shall effect the removal, and the parties shall proceed no further in that court unless and until the case is remanded or the Bankruptcy Court orders otherwise.
- (b) **Procedure after Removal.** The party filing the Notice of Removal shall file, or cause to be filed, with the Bankruptcy Clerk certified copies of all records and proceedings in the court from which the case was removed. This filing shall be at the party’s expense and made within ten (10) days after the filing of the Notice of Removal.
- (c) **Remand.** If, at any time before final judgment, it appears that the civil action or proceeding was removed improvidently or that this Court lacks jurisdiction to adjudicate the matter, this Court shall remand the case back to the court from which it was removed and may order the payment of just costs. A certified copy of the “Order of Remand” shall be mailed by the Clerk of this Court to the clerk of the court from which the civil action or proceeding was removed, and that court may thereupon proceed with the case.

VT. LBR 9029-1. LOCAL RULES – GENERAL

VT. LBR 9029-1. LOCAL RULES – GENERAL

- (a) **Scope and Title.** These Local Rules shall govern procedure in the United States Bankruptcy Court for the District of Vermont (“the Court”). These Local Rules shall be cited as “Vermont Local Bankruptcy Rules” or “Vt. LBR.” These Local Rules supplement the Federal Rules of Bankruptcy Procedure (referred to herein as the “Bankruptcy Rules”). Cases, contested matters, and adversary proceedings transferred or withdrawn to the United States District Court for the District of Vermont shall be governed, as applicable, by the Local Rules of Procedure for the United States District Court for the District of Vermont (referred to herein as the “District Court Local Rules”).
- (b) **Making and Amending these Local Rules.** These Local Rules may be made and amended by action of the Judges of the United States District Court for the District of Vermont, pursuant to Bankruptcy Rule 9029 and by this Court, pursuant to the Order entitled “Authority for Making and Amending Local Rules” entered on March 27, 2001.
- (c) **Matters Not Covered by These Rules.**
- (1) **Consistent Practice.** In any matter not covered by these Local Rules, the Court may regulate practice in any manner not inconsistent with the Bankruptcy Rules and the Federal Rules of Civil Procedure.
 - (2) **Suspension of Rules.** The Court, *sua sponte* or upon the motion of any party, may change or dispense with any of these Local Rules in the interests of justice.
 - (3) **Good Cause.** A motion for waiver of these Local Rules may be approved if the movant demonstrates good cause for the waiver.

VT. LBR 9029-2. LOCAL RULES – GENERAL ORDERS

General orders may be issued by the Court to keep these Local Rules current. Copies of all general orders may be obtained from the Clerk’s Office or found on the Court’s website at <http://www.vtb.uscourts.gov>.

VT. LBR 9029-3. LOCAL RULES – DISTRICT COURT

Reserved

VT. LBR 9035-1. BANKRUPTCY ADMINISTRATORS

Reserved

Vt. LBR 9036-1. NOTICE BY ELECTRONIC TRANSMISSION

- (a) **Generally.** Pursuant to Bankruptcy Rule 9036, the Court may direct the Clerk or the federal judiciary's Bankruptcy Noticing Center ("BNC") to give notice by electronic transmission if an entity entitled to receive notice requests in writing that the notice be transmitted electronically. This written request requirement may be fulfilled through the execution of an electronic noticing agreement. See paragraph (b) below. This is in addition to and distinct from the consent document executed for CM/ECF electronic service.
- (b) **Noticing Agreements.** The Court will provide noticing agreements through the judiciary's BNC to any entity requesting this service. The terms and procedures for electronic noticing are detailed in the Court's noticing agreement provided by the Clerk and also available on the Court's website at <http://www.vtb.uscourts.gov>.
- (c) **Electronic Notice of Court Orders and Judgments.** Immediately upon the entry of an order or judgment, the Clerk will transmit to a party registered to use CM/ECF in the case, in electronic form, a "Notice of Electronic Filing." Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Bankruptcy Rule 9022. In accordance with the Bankruptcy Rules, the Clerk shall give non-electronic notice to any person who has not consented to electronic service.

Vt. LBR 9070-1. EXHIBITS – PRODUCTION, RETENTION AND CUSTODY OF

- (a) **Marking of Exhibits.** In an adversary proceeding or a contested matter, the exhibits shall be marked by counsel or the parties prior to the time set for commencement of the trial or hearing. If more than ten (10) exhibits are to be introduced, each exhibit must be labeled, tabbed, and placed in a three-ring binder or be submitted in "pdf" format on a CD. An index to all exhibits must be produced. Unless impracticable and waived by the Court, all documentary exhibits shall be prepared in quantity at least sufficient to provide copies to the Court, each opposing counsel, and the examining attorney.
- (b) **Retention of Exhibits by Attorneys.** Unless the Court directs otherwise, original exhibits shall not be filed with the Clerk, but rather shall be retained in the custody of the respective attorneys or persons who produced them in court. The Court will retain its copy of exhibits if it reserves decision.

VT. LBR 9072-1. ORDERS – PROPOSED

- (c) **Retrieval of Exhibits from the Clerk.** Exhibits that have been submitted to the Clerk shall be removed by the party responsible for the exhibits: (1) if no appeal has been taken, at the expiration of the time for taking an appeal; or (2) if an appeal has been taken, within 30 days after the record on appeal has been returned to the Clerk. The Clerk shall give parties who fail to comply with this timeframe 30 days’ notice to retrieve such exhibits. Thereafter, the Clerk may dispose of such exhibits without further notice.
- (d) **Appeal.** If a party appeals a decision or order, the party shall submit all exhibits necessary to perfect the appeal and include them in the record on appeal.
- (e) **Photocopy Size.** All photocopies of original exhibits that are submitted as part of a document filed in the Clerk’s Office, whether filed electronically or non-electronically, shall be 8½” x 11” in size.
- (f) **Electronic Filing of Attachments and Exhibits.** A party registered to use CM/ECF must submit in electronic form the documents referenced as exhibits or attachments, unless the Court permits the documents to be filed in non-electronic form. A party registered to use CM/ECF must submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the Court. Excerpted material must be clearly and prominently identified as such. A party registered to use CM/ECF who files excerpts of documents as exhibits or attachments under this Rule does so without prejudice to his/her/its right to file timely additional excerpts or the complete document. Responding parties may file additional excerpts or the complete document that they believe are germane. This Rule applies to proofs of claims as well as other pleadings and documents.

VT. LBR 9071-1. STIPULATIONS

Reserved

VT. LBR 9072-1. ORDERS – PROPOSED

- (a) **When Required.** All requests for relief, including applications and motions, except pleadings initiating adversary proceedings, shall be accompanied by a proposed order.
- (b) **Submission of Orders.** Except as described in paragraph (c) below, proposed orders must be separate documents (*i.e.*, not attached to or incorporated into a motion or application) and must be accompanied by a service list. A proposed order accompanying a motion that is filed electronically shall be filed as set forth in this Rule. The Court may request

that certain proposed orders also be transmitted to the Courtroom Deputy via e-mail; however, a duplicate proposed order should not be transmitted to the Courtroom Deputy unless specifically requested. After entry, the Clerk will arrange for service of orders to all parties listed on the service list through the BNC.

- (c) **Allowed Endorsement Orders.** When parties stipulate to extend or shorten a deadline or continue a hearing, or when a debtor moves to delay the entry of discharge, such stipulations or motions may be submitted with an endorsement order and signature block on the same page for the Court's approval. However, all other requirements for such stipulations or motions must be met (e.g., a stipulation to continue a hearing must still present good cause for granting the continuance). Further, in its discretion, and where it deems it appropriate, the Court may grant a motion through endorsement.
- (d) **Settled Orders.** See generally Vt. LBR 9011-1(e) and (f); Vt. LBR 9013-1(e).
- (e) **Format of Signature Line on Proposed Orders.** The Court will not execute proposed orders where the Court's date of entry and signature line are situated on a separate page. Rather, there must be a continuity of language from the previous page contained on the signature page.
- (f) **Lift Stay Relief.** See Vt. LBR 4001-1(e).

Vt. LBR 9073-1. HEARINGS
Reserved

Vt. LBR 9074-1. TELEPHONE CONFERENCES
Reserved

Vt. LBR 9075-1. EMERGENCY ORDERS

See generally Vt. LBR App. B, "How to File an Emergency Motion."

APPENDIX A-1 DECLARATION RE: ELECTRONIC FILING

Appendix A-1 Declaration Re: Electronic Filing

UNITED STATES BANKRUPTCY COURT DISTRICT OF VERMONT

In re: _____

[Debtor's Name],
Debtor.

Chapter [#] Case
XX-XXXXX

DECLARATION RE: ELECTRONIC FILING (Declaration REF)

PART I -- Declaration of Petitioner:

I [We] _____ [and _____], the undersigned debtor(s), corporate officer or partnership member, hereby declare under penalty of perjury that the information I have given my attorney and the information provided in the electronically filed petition, statements and schedules, or amendments thereof, is true and correct. I understand that this DECLARATION RE: ELECTRONIC FILING is to be filed with the Clerk after any of the above mentioned documents (petition, statements, schedules, or amendments thereof) have been filed electronically but, in no event, no later than ten (10) calendar days after any of these documents have been filed.

☐ [If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under Chapter 7, 11, 12, or 13 of Title 11 of the United States Code, and I understand the relief available under each such Chapter and choose to proceed under chapter 7.

I further declare under penalty of perjury that the information provided on Form 21, Statement of Social Security Number(s), is accurate.

☐ [If petitioner is a corporation, partnership or limited liability entity] I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor. The debtor requests relief in accordance with the Chapter specified in this petition.

I understand that my failure to file the signed original of this DECLARATION RE: ELECTRONIC FILING is a ground for dismissal of my case without further notice.

Dated: _____

Authorized Corporate Officer/Partnership Member

Signed: _____
Debtor

Joint Debtor

(If joint case, then both spouses must sign.)

Part II -- Declaration of Attorney:

I declare under penalty of perjury that, to the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances that the above debtor's[s'] petition, schedules, statements are not being presented for any improper purpose; that the claims, defenses, and other legal contentions therein are warranted and are not frivolous; that the allegations and other factual contentions have, or will have, evidentiary support; and, the denials of factual contentions are warranted. I further certify that the debtor(s) signed this Declaration Re: Electronic Filing after I submitted the petition, schedules and statements or amendments thereof, and after I gave the debtor(s) a copy of the electronically-filed document identified on the attached **Notice of Electronic Filing** from the Electronic Case Filing system, and I believe that the electronic document fully and accurately reflects the information given to me by the debtor(s). I have complied with all other Electronic Case Filing requirements. I have informed the individual petitioner(s) that [he and/or she] may proceed, to the extent eligible, under Chapter 7, 11, 12 or 13 of Title 11 of the United States Code, and I have explained the relief available under each such Chapter. This declaration is based upon all information of which I have knowledge. *If this filing involves an amendment to the creditor list, I certify that I have served all parties who are affected by this amendment with a copy thereof and a copy of the Notice of Bankruptcy Case, Meeting of Creditors and Deadlines (341 Meeting Notice), if applicable, and have served any trustee.*

Dated: _____

Attorney for Debtor(s)

**(FILE ORIGINAL CONVENTIONALLY WITH THE COURT. DO NOT FILE
ELECTRONICALLY!)**

APPENDIX A-2: SAMPLE NOTICE OF ELECTRONIC FILING

Appendix A-2: Sample Notice of Electronic Filing

**SAMPLE OF
NOTICE OF ELECTRONIC FILING**
GENERATED BY ELECTRONIC CASE FILING SYSTEM WHEN A
DOCUMENT IS FILED

00-00000-CAB Notice of Electronic Filing

The following transaction was received from Jim C. Doe on 01/ 01/ 2001 at 12: 01 AM

Case Name: Debtor name
Case Number: 00-00000-CAB
Document Number: 14

Docket Text:
MOTION FOR RELIEF FROM STAY filed by Jim C. Doe of Creditors law firm on behalf of Creditor. (Doe, Jim C.)

The following document(s) are associated with this transaction:

Document description: Main Document
Original filename: x:/ xxxx/ 12345. pdf
Electronic document Stamp:
[STAMP VTBStamp_ ID= 1111111111[Date= 01/ 01/ 2001][FileNumber= 11111-1][other codes]]

00-00000-CAB Notice will be electronically mailed to:

Jim C. Doe jdoe@creditors.com
Julie W. Doe jdoe@lawfirm.com

00-00000-CAB The person(s) listed below could not be notified electronically because that person's e-notification service is not activated:

John Doe
123 Main St.
Nowhere, USA

Jane Doe
456 Main St.
Somewhere, USA

APPENDIX B: HOW TO FILE AN EMERGENCY MOTION

Appendix B: How to File an Emergency Motion

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

HOW TO FILE AN EMERGENCY MOTION

What is an emergency?

- Any relief sought for which, through circumstances beyond the control of the applicant, there is not enough time to give the notice required by the Bankruptcy Code and Rules.

What must be filed?

- Absent dire circumstances, the applicant must file papers for the Court's consideration, stating the nature of relief, the statutory basis therefore and the facts creating the urgency.
- "Emergency Matter" or the word "Emergency" should be in the caption of the papers filed to alert the Clerk's Office of the urgent nature of the relief sought.

Where must it be filed?

- The applicant must either e-file or fax papers to the Clerk's Office.

Who must be called?

- The applicant must call the Clerk's Office to alert a staff member (preferably the Courtroom Deputy) that an emergency motion has been filed.

What kind of hearing will be held?

- If the Court determines that an emergency hearing is necessary, it prefers that counsel appear in person for such hearing, but will permit participation by telephone if the nature of the emergency and time constraints warrant such a format. The applicant should request an evidentiary hearing if testimony is necessary for the relief sought. Otherwise, the hearing will be limited to legal arguments by counsel.

Who gets notice of the hearing?

- The applicant must notify all affected parties, as well as the case trustee and the U.S. Trustee. In very time sensitive instances, the Court may approve notification via telephone.
- Absent dire circumstances, the applicant is required to file a notice of hearing and certificate of service indicating the parties notified and the method of notification.
- In dire circumstances, the Court will proceed without the filing or service of papers. However, as a general rule, the applicant must either e-file or fax papers prior to the hearing.

Who sets the hearing?

- The applicant must coordinate the hearing time, date and location with the Courtroom Deputy.
- If desired, the applicant may arrange for a court reporter. However, the Court may use an electronic recording system to record the hearing. See Vt. LBR 5076-1(b); Vt. LBR 5077-1.
- In the case of a telephonic hearing or appearance via video conference, the applicant must arrange for the conference call or the video conference.

APPENDIX C: SUMMARY BALLOT REPORT AND CERTIFICATION

Appendix C: Summary Ballot Report and Certification

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

[Name of Debtor],
Chapter 11 Case
Debtor-in-Possession.
XX-XXXXX

SUMMARY BALLOT REPORT AND CERTIFICATION

NOW COMES [the Plan Proponent], by and through its attorney [name of attorney] and hereby summarizes, reports and certifies to the Court the results of the balloting on the [Plan Proponent]'s Chapter 11 Plan of Reorganization (hereinafter, "Plan"), dated [date], and in making such report states as follows:

TIMELY and UNTIMELY FILED BALLOTS

1. Of [#] of ballots issued, there were [number (#)] filed, with [number (#)] being timely and [number (#)] being untimely;
2. Of the timely-filed ballots, [number (#)] accepted the Debtor's Plan and [number (#)] rejected the Plan.

SUMMARY OF BALLOTING BY CLASSES

1. Class [#] [Name or Identity of Class]:
This class is impaired, has voted upon the Plan, and [ACCEPTS/REJECTS] the Plan.

Class [#]	Ballots	Claims in terms of \$
Total in Class	[# of ballots distributed]	[\$ amount of allowed claims]
# Filed	[# of ballots] [(% of total)]	[\$ amount] [(% of total)]
For Plan	[# of ballots] [(% of total)]	[\$ amount] [(% of total)]
Against Plan	[# of ballots] [(% of total)]	[\$ amount] [(% of total)]

2. Class [#] [Name or Identity of Class]:
This class is impaired, has voted upon the Plan, and [ACCEPTS/REJECTS] the Plan.

Class [#]	Ballots	Claims in terms of \$
Total in Class	[# of ballots distributed]	[\$ amount of allowed claims]
# Filed	[# of ballots] [(% of total)]	[\$ amount] [(% of total)]
For Plan	[# of ballots] [(% of total)]	[\$ amount] [(% of total)]
Against Plan	[# of ballots] [(% of total)]	[\$ amount] [(% of total)]

APPENDIX C: SUMMARY BALLOT REPORT AND CERTIFICATION

3. Class [#] [Name or Identity of Class]:
This class is impaired, has balloted upon the Plan, and [ACCEPTS/REJECTS] the Plan.

Class [#]	Ballots	Claims in terms of \$
Total in Class	[# of ballots distributed]	[\$ amount of allowed claims]
# Filed	[# of ballots] [(% of total)]	[\$ amount] [(% of total)]
For Plan	[# of ballots] [(% of total)]	[\$ amount] [(% of total)]
Against Plan	[# of ballots] [(% of total)]	[\$ amount] [(% of total)]

[PROVIDE AS MANY SUMMARY PARAGRAPHS AS NECESSARY.]

CERTIFICATION

I certify that the [Plan Proponent] retains the voted ballots and upon request of the Court, the debtor-in-possession, the case trustee (if any), and/or the Office of the U.S. Trustee, copies of such ballots shall be provided. I further certify that the above summary report is an accurate summary of all classes, all allowed claims and of all ballots voted and that this summary complies with Vt. LBR 3018-3.

DATED this [day] of [month] [year] at [location].

[Authorized Agent of Plan Proponent]

By: _____
[Printed Name of Signatory]
[Address]
[Phone #]
[Fax #]
[E-mail address]

Appendix D: Order Confirming Chapter 11 Plan

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re:

[Name of Debtor],
Debtor-in-Possession.

Chapter 11 Case
XX-XXXXX

ORDER CONFIRMING CHAPTER 11 PLAN

WHEREAS, the Debtor-in-Possession filed a plan of reorganization on [date], [and the plan was amended on [date],] (hereafter referred to as “the plan”), and;

WHEREAS, a hearing was held to consider confirmation of that plan of reorganization on [date], at which the following attorneys appeared on behalf of the following parties: _____, _____, _____, _____; and _____ testified on behalf of the Debtor-in-Possession.

Based upon the record before the Court, and arguments and evidence presented at the hearing(s) held in connection with this Plan, the Court HEREBY FINDS, pursuant to 11U.S.C. § 1129(a):

- (1) the plan complies with the applicable provisions of Title 11;
- (2) the proponent of the plan complies with the applicable provisions of Title 11;
- (3) the plan has been proposed in good faith and not by any means forbidden by law;
- (4) any payment made or to be made by the proponent, by the Debtor-in-Possession, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with this case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the Court as reasonable;
- (5) the proponent of the plan has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as the director, officer, or voting trustee of the Debtor-in-Possession, an affiliate of the Debtor-in-Possession participating in a joint plan with the Debtor-in-Possession, or a successor to the Debtor-in-Possession under the plan; and the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy; and the proponent of the plan has disclosed the identity of any insider who will be employed or retained by the reorganized Debtor-in-Possession, and the nature of any compensation for such insider;

APPENDIX D: ORDER CONFIRMING CHAPTER 11 PLAN

- (6) any governmental regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the Debtor-in-Possession has approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval;
- (7) with respect to each impaired class of claims or interests-
 - (A) each holder of a claim or interest of such class -
 - (i) has accepted the plan; or
 - (ii) will receive or retain under the plan an account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the Debtor-in-Possession were liquidated under Chapter 7 of Title 11 on such date; or
 - (B) if §1111(b)(2) of Title 11 applies to the claims of such class, each holder of a claim of such class will receive or retain under the plan on account of such claim property of a value, as of the effective date of the plan, that is not less than the value of such holder's interest in the estate's interest in the property that secures such claims;
- (8) with respect to each class of claims or interests-
 - (A) such class has accepted the plan; or
 - (B) such class is not impaired under the plan;
- (9) except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that -
 - (A) with respect to a claim of a kind specified in §§ 507(a)(1) or 507(a)(2) of Title 11, on the effective date of the plan, the holder of such claim will receive on account of such claim cash equal to the allowed amount of such claim;
 - (B) with respect to a class of claims of a kind specified in §§ 507(a)(3), 507(a)(4), 507(a)(5), 507 (a)(6), or 507(a)(7) of Title 11, each holder of a claim of such class will receive-
 - (i) if such class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or
 - (ii) if such class has not accepted the plan, cash on the effective date of the plan equal to the allowed amount of such claim; and
 - (C) with respect the a claim of kind specified in § 507(a)(8) of Title 11, the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding six years after the date of assessment of such claim, of a value, as of the effective date of the plan, equal to the allowed amount of such claim;

APPENDIX D: ORDER CONFIRMING CHAPTER 11 PLAN

- (10) if a class of claims is impaired under the plan, at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider;
- (11) confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor-in-Possession or any successor to the Debtor-in-Possession under the plan, unless such liquidation or reorganization is proposed in the plan;
- (12) all fees payable under § 1930 of Title 28, as determined by the Court at the hearing on confirmation of the plan, have been paid or the plan provides for the payment of all such fees on the effective date of the plan; and
- (13) the plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in § 1114 of Title 11, at the level established pursuant to subsection (e)(I)(B) or (g) of § 1114 of Title 11, at any time prior to confirmation of the plan, for the duration of the period the Debtor-in-Possession has obligated itself to provide such benefits;
- (14) the plan proponent has complied with [Vt. LBR 3020-1(a)(1) through (3) for confirmation achieved through 11 U.S.C. §1129(a).] [OR] [Vt. LBR 3020-1(b) for “cram-down” confirmation achieved through 11 U.S.C. §1129(b).]
- (15) the plan proponent may include here any specific rulings made at the hearing, recitation of objections filed and the resolution of each objection, unusual provisions of the plan, or other directions to which all interested parties consent, e.g., with regard to retention of jurisdiction.]

IT IS HEREBY ORDERED that the plan is confirmed; and

IT IS FURTHER ORDERED that the proponent of the plan or the disbursing agent defined in the plan shall comply with Vt. LBR 3022-1 by filing the report of substantial consummation and the motion for final decree no later than 180 days after the entry of this Order confirming the plan, unless the Court, for cause shown, extends the time upon motion filed and served within this 180-day period; and

IT IS FURTHER ORDERED that the proponent of the plan or the disbursing agent defined in the plan shall file with the Court and serve on the Office of the U.S. Trustee an affidavit showing all cash disbursements for each month after confirmation of the case. The affidavit shall be due on the last day of the month after the month reported. The duty to file the monthly affidavit shall cease upon the entry of the final decree, the conversion of the case to another chapter under Title 11 of the United States Code, or the dismissal of the case. The affidavit shall disclose all disbursements for the reorganized Debtor-in-Possession by stating the total amount of payments made in that month pursuant to the plan, with a subtotal of payments for each class defined in the plan. The affidavit will further disclose whether the total amount paid to each class complies with the terms of the plan, is in a lesser amount, or whether there is a good faith dispute about the amount owed; the administrative expenses paid; and a total of

APPENDIX D: ORDER CONFIRMING CHAPTER 11 PLAN

cash disbursements made in the ordinary course of the Debtor-in-Possession's ongoing operations; and

IT IS FURTHER ORDERED that the Debtor-in-Possession shall pay a sum certain determined by the Office of the U.S. Trustee to the Office of the U.S. Trustee for fees due pursuant to 28 U.S.C. § 1930(a)(6), within ten (10) days of the entry of this Order and to continue to make timely quarterly payments to the Office of the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6) until the entry of the final decree, the conversion of the case to another chapter under Title 11 of the United States Code, or the dismissal of the case.

SO ORDERED this [day] of [month] [year] at [location].

Colleen A. Brown
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

FORMAT FOR PRE-TRIAL STATEMENTS

A pre-trial statement should be filed jointly by the parties. If the parties are not able to reach an agreement as to a joint pre-trial statement, then each party is expected to file and serve his or her own pre-trial statement with an affirmation that he/she has made diligent, good faith efforts to produce a joint pre-trial statement, but was unable to do so.

The pre-trial statement should include the following information, in this sequence:

- (a) The correct case caption;
- (b) A brief procedural history of the case, including the dates: (i) the case was filed; (ii) the instant proceeding was filed; (iii) the various key pleadings and papers were filed; and (iv) when the pre-trial statement is due;
- (c) A statement of the undisputed material facts;
- (d) A statement of the disputed material facts;
- (e) An outline of the contested legal issues (including whether the Court has jurisdiction to enter final orders on each issue);
- (f) An outline of all evidentiary issues and any anticipated objections;
- (g) Identification of witnesses with a brief summary of each witness's anticipated testimony;
- (h) Identification of exhibits and an assertion that exhibits will be exchanged, marked and copied prior to the hearing so the Court and all counsel shall have a complete set available to them throughout the trial or hearing;
- (i) The estimated length of the trial or contested hearing; and
- (j) Any unique circumstances to be addressed.

APPENDIX F: NOTICE TO PRO SE LITIGANT SERVED WITH MOTION FOR SUMMARY JUDGMENT
Appendix F: Notice to *Pro Se* Litigant Served with Motion for Summary Judgment

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

[Debtor's Name],
Debtor.

Chapter [#] Case
XX-XXXXX

[Plaintiff's Name],

Plaintiff,

v.

[Defendant's Name].

Defendant.

Adversary Proceeding
XX-XXXX

NOTICE TO PRO SE LITIGANT
SERVED WITH A MOTION FOR SUMMARY JUDGMENT

The [Plaintiff/Defendant] in this case has moved for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure as effectuated by Federal Rules of Bankruptcy Procedures 7056. This means that the [Plaintiff/Defendant] has asked the Court to decide this case without a trial, based on written materials, including affidavits, submitted in support of the motion. **THE CLAIMS ASSERTED IN THE COMPLAINT MAY BE DECIDED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION.**

PLEASE TAKE NOTICE that in order to respond to this motion effectively you **MUST** file your own sworn affidavits or other papers as required by Rule 56(e). An affidavit is a sworn statement of fact based on personal knowledge that would be admissible in evidence at trial. The full text of Rule 56 is attached. In short, Rule 56 provides that you may NOT oppose summary judgment simply by relying upon the allegations in your Answer. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the [Plaintiff/Defendant] and raising issues of fact for trial. Any witness statements, which may include your own statements, must be in the form of affidavits. You may submit affidavits that were prepared specifically in response to [Plaintiff's/Defendant's] Motion for Summary Judgment.

APPENDIX F: NOTICE TO PRO SE LITIGANT SERVED WITH MOTION FOR SUMMARY JUDGMENT

Any issue of fact that you wish to raise in opposition to the Motion for Summary Judgment must be supported by affidavits or by other documentary evidence contradicting the facts asserted by the [Plaintiff/Defendant]. If you do not respond to the Motion for Summary Judgment on time with affidavits or documentary evidence contradicting the facts asserted by the [Plaintiff/Defendant], the Court may accept [Plaintiff's/Defendant's] factual assertions as true. Judgment may then be entered in the [Plaintiff's/Defendant's] favor, and the lawsuit may be dismissed without a trial.

The Court staff cannot give you legal advice. You are urged to retain an attorney to protect your rights. If you cannot afford to do that, you should obtain and follow the Court's Local Rules. You should pay special attention to Vt. LBR 7056-1 and Vt. 7056-2, which both provide information about the requirements of a motion for summary judgment.

DATED this [day] of [month] [year] at [location].

[Printed Name of Signatory]
[Address]
[Phone #]
[Fax #]
[E-mail address]

Reprint of Federal Rule of Civil Procedure 56

Rule 56. Summary Judgment

- a. **For Claimant.** A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in the party's favor upon all or any part thereof.
- b. **For Defending Party.** A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for summary judgment in the party's favor as to all or any part thereof.
- c. **Motion and Proceedings Thereon.** The motion shall be served at least 10 days before the time fixed for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.
- d. **Case Not Fully Adjudicated on Motion.** If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.
- e. **Form of Affidavits; Further Testimony; Defense Required.** Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.

APPENDIX F: NOTICE TO PRO SE LITIGANT SERVED WITH MOTION FOR SUMMARY JUDGMENT

- f. **When Affidavits are Unavailable.** Should it appear from the affidavits of a party opposing the motion that the party cannot for reasons stated present by affidavit facts essential to justify the party's opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.
- g. **Affidavits Made in Bad Faith.** Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.

APPENDIX G-1: NOTICE OF MOTION

Appendix G-1: Notice of Motion

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

[Debtor's Name],
Debtor.

Chapter [#] Case
XX-XXXXX

NOTICE of MOTION

A **MOTION FOR** [example: **PROTECTIVE ORDER**] has been filed on or about [date] by the Debtor, through his attorneys, Law Offices of X, Y & Z, seeking [example of relief sought: to prevent Acme Finance Company from requiring Debtor to attend a deposition in the State of California].

A **HEARING ON THE MOTION** and any responses **will be held** at [time] on [date] at the following location: [indicate Rutland or Burlington location].

IF YOU OPPOSE THE MOTION, you are encouraged to file a written objection with the Clerk of the Court, **on or before 4:00 P.M. on [a date that is no less than three (3) business days prior to the hearing date]**. If you file a written opposition, **a copy must also be served on** the Moving Party, the Debtor, the Debtor's counsel, the United States Trustee, the Case Trustee, if any, and in a Chapter 11 case, the Creditors' Committee and its counsel, or if no committee is appointed, then upon the 20 largest unsecured creditors. Addresses for those parties are set forth below.

Dated at [location] this [day] of [month] [year].

[Signature of Movant-Attorney]

[Printed Name of Movant-Attorney]

[Address]

[Phone #]

[Fax #]

[E-mail address]

U.S. Trustee
74 Chapel St, Ste 200
Albanv. NY 12207-

For Acme Finance Company
c/o [Attorney's Name]
[Name of Law Firm, if any]
[Street Address or P.O. Box]
[City, State, Zip Code]

Other interested parties upon
whom
Oppositions must be served . . .
xxxxxxxxxxxxxxxxxxxx
xxxxxxxxxxxxxxxxxxxx

[Name], CASE TRUSTEE
Chapter [#] Trustee
[Street Address or P.O. Box]
[City, State, Zip Code]

APPENDIX G-2: NOTICE OF MOTION UNDER DEFAULT PROCEDURE

Appendix G-2: Notice of Motion Under Default Procedure

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

[Debtor's Name],
Debtor.

Chapter [#] Case
XX-XXXXX

NOTICE of MOTION UNDER DEFAULT PROCEDURE

[See Vt. LBR 9013-4(b) for relief available using the default procedure.]

A **MOTION FOR** [example: **RELIEF FROM STAY Re: 2000 Honda Civic, VIN 1234567890ABCDEFGH**] has been filed on or about [date] by Acme Finance Company, through its attorneys, ABC Law Offices, seeking [example of relief sought: relief from the automatic stay].

IF YOU OPPOSE THE MOTION, you must file a written opposition with the Clerk of the Court, **on or before 4:00 p.m. on [a date that is no less than eight (8) days prior to the hearing date]**. A copy must also be served on the Moving Party, the Debtor, the Debtor's counsel, the United States Trustee, the Case Trustee, if any, and in a Chapter 11 case, the Creditors' Committee and its counsel, or if no committee is appointed, then upon the 20 largest unsecured creditors. Addresses for those parties are set forth below.

IF AN OPPOSITION IS TIMELY FILED, the Court will hold a hearing on the Motion and any opposition at [time] on [date] at the following location: [indicate Rutland or Burlington location], unless the Court deems no hearing is necessary and enters an order prior to the time set for hearing.

IF NO OPPOSITION IS FILED TIMELY, the Court **may** deem the matter unopposed and grant the motion without further hearing. Note: If an order has not been entered before the hearing date, the hearing shall proceed.

Dated at [location] this [day] of [month] [year].

[Signature of Movant-Attorney]

[Printed Name of Movant-Attorney]

[Address]

[Phone #]

[Fax #]

[E-mail address]

U.S. Trustee
74 Chapel St, Ste 200
Albany, NY 12207-

[Name], CASE TRUSTEE
[Street Address or P.O. Box]
[City, State, Zip Code]

Counsel for Debtor
[Name of Law Firm, if any]
[Street Address or P.O. Box]
[City, State, Zip Code]

Debtor Chapter [#] Trustee
[Street Address or P.O.
Box]

Other interested parties upon
whom
Oppositions must be served . . .
xxxxxxxxxxxxxxxxxxxx
xxxxxxxxxxxxxxxxxxxx

APPENDIX H: RULE 9014(E) NOTICE OF EVIDENTIARY HEARING

Appendix H: Rule 9014(e) Notice of Evidentiary Hearing

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

[Debtor's Name],
Debtor.

Chapter [#] Case
XX-XXXXX

RULE 9014(e) NOTICE OF EVIDENTIARY HEARING

1. A hearing is scheduled for ____ [time] ____ on ____ [date] ____ at ____ [location] ____ regarding ____ [name of movant]'s [type of relief sought] _____. ____ [Requesting Party] has confirmed with the Courtroom Deputy that said hearing will be an evidentiary hearing.
2. ____ [Amount of time] ____ has been set aside for this evidentiary hearing.
3. ____ [Requesting Party] ____ [has]/[has not] contacted the opposing party(ies)/interested party(ies) regarding the time necessary for this evidentiary hearing.
4. ____ [Requesting Party] ____ intends to call the following witnesses:*

(Note: If the opposing party(ies)/interested party(ies) requires additional time and/or intends to call additional witnesses, that party must contact the Courtroom Deputy to arrange for additional time, and file and serve a supplemental Rule 9014(e) Notice. See Vt. LBR 9014-1(e).)

5. **If you dispute the need for, or the scope of, the hearing described in this Notice, you must file a written opposition with the Clerk of the Court on or before 4:00 P.M. on response deadline (three (3) business days before the hearing). A copy must also be served on the Requesting Party, the Debtor, the Debtor's counsel, the United States Trustee, the Case Trustee, if any, and in a Chapter 11 case, the Creditors' Committee and its counsel or if no committee is appointed, then upon the 20 largest unsecured creditors, by the response deadline.**
6. Any additional information requesting party deems relevant/necessary for the Court's consideration (e.g., whether, due to the request for an evidentiary hearing, the requesting party agrees to a waiver of 11 U.S.C. § 362(e)).
7. This evidentiary hearing will be held in lieu of the hearing previously scheduled for ____ [time] ____ on ____ [date] ____ at ____ [location] ____ regarding ____ [requesting party]'s [type of relief sought] ____.

Dated this ____ [date] ____ day of ____ [month] ____ [year].

____ [Signature of Requesting Party] ____
[Name, address, telephone and fax
numbers, and e-mail address.]

* If the list of intended witnesses changes, an amended Rule 9014(e) Notice of Evidentiary Hearing shall be filed promptly. However, the disclosure of intended witnesses is not a guarantee upon which opposing counsel should rely when determining whether to issue subpoenas. See Vt. LBR 9014-1(e)(4).

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

**REFERENCE GUIDE FOR
CONVERSION AND DISMISSAL OF CHAPTER 7 AND 13 CASES**

a. CONVERSION from Chapter 7 to Chapters 11, 12, or 13 (11 U.S.C. § 706)

- 1. By the Debtor.** The debtor has an absolute right to convert from Chapter 7 to Chapter 11, 12, or 13 **at any time** *provided* that the case has not been previously converted and the debtor is eligible for relief under the chapter. This is done **by motion** per Bankruptcy Rule 1017(f)(2).
 - A. Where there has been a previous conversion, the default procedure may be used.
 - B. Where there has not been a previous conversion, no hearing is required, but the Office of the U.S. Trustee and the Chapter 7 Trustee are to be served and given five (5) days' notice.
 - C. There is no fee for the conversion motion, but the debtor must pay the difference between the original filing fee and the filing fee for the new chapter.
- 2. By a Party in Interest.** A party in interest may file a motion seeking conversion from Chapter 7 to Chapter 11; conversion from Chapter 7 to Chapter 12 or 13 is available only at the request of the debtor (under the procedure set forth above). A party in interest seeking to convert a case must proceed **by motion** per Bankruptcy Rule 1017(f)(1).
 - A. The default procedure can be used.
 - B. The movant must provide 20 days' notice to the debtor, all creditors, the case trustee, and the Office of the U.S. Trustee per Bankruptcy Rule 2002(a)(4).

b. CONVERSION from Chapter 13 to Chapter 7 (11 U.S.C. § 1307).

- 1. By the Debtor.** The debtor may convert his/her case from Chapter 13 to Chapter 7 **at any time**. The debtor has an absolute right to this relief (*with no exceptions in this District*). This is done **by notice of conversion** per Bankruptcy Rule 1017(f)(3).
 - A. No order is required. (The Court issues an order regarding filing requirements imposed upon conversion, but the order is not necessary to approve conversion.).
 - B. A \$15 conversion fee must be paid at the time of the filing of the notice.
- 2. By a Party in Interest.** Upon the motion of the Office of the U.S Trustee or a party in interest, and after notice and hearing, a case may be converted from Chapter 13 to Chapter 7 for cause, see 11 U.S.C. § 1307(c), except that a family farmer's case may not be converted from Chapter 13 to Chapter 7.

APPENDIX I: REFERENCE GUIDE FOR CONVERSION/DISMISSAL OF CH. 7 AND 13 CASES

- A. The default procedure can be used.
- B. The movant must provide 20 days' notice to the debtor, all creditors, the case trustee, and the Office of the U.S. Trustee per Bankruptcy Rule 2002(a)(4).
- C. The movant must pay the \$15 conversion fee at the time of filing the motion.
(Note: This fee is due regardless whether the motion is granted. Also, if multiple motions to convert are filed, a \$15 fee must accompany each motion; however, if several parties join in a single motion to convert, only one \$15 fee is due.)

c. DISMISSAL of a Chapter 7 Case (11 U.S.C. § 707).

A Chapter 7 case can be dismissed only after notice and hearing, and only for cause, see 11 U.S.C. § 707(a), or for substantial abuse, see 11 U.S.C. § 707(b). This relief is sought **by motion**.

- 1. The default procedure can be used.
- 2. The movant must provide 20 days' notice to the debtor, all creditors, the case trustee, and the Office of the U.S. Trustee per Bankruptcy Rule 2002(a)(4).
- 3. The minimum notice requirement is waived if the movant is seeking dismissal based upon:
 - A. the debtor's failure to pay the filing fee (11 U.S.C. § 707(a)(2));
 - B. the debtor's failure to file schedules and statements (11 U.S.C. § 707(a)(3)); or
 - C. the U.S. Trustee's motion for abuse of the bankruptcy system (11 U.S.C. § 707(b)).

d. DISMISSAL of a Chapter 13 Case (11 U.S.C. § 1307).

- 1. **By the Debtor.** A debtor may obtain dismissal of his/her Chapter 13 case at **any time**. The debtor has an absolute right to this relief *provided* that the case has not been previously converted.
 - A. This relief is sought **by motion** per Bankruptcy Rule 1017(f)(2);
 - B. No hearing is required, but the U.S. Trustee and Chapter 13 Trustee must be served, see Bankruptcy Rule 1017(a), and given five (5) days' notice.
- 2. **By a Party in Interest.** Upon the **motion** of the Office of the U.S. Trustee or a party in interest, and after notice and hearing, a Chapter 13 case may be dismissed for cause, see 11 U.S.C. § 1307(c).
 - A. The default procedure can be used;
 - B. The movant must provide 20 days' notice to the debtor, all creditors, the case trustee, and the Office of the U.S. Trustee per Bankruptcy Rule 2002(a)(4).

APPENDIX J: NOTICE OF AMENDMENT COVER SHEET

Appendix J: Notice of Amendment Cover Sheet

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

[Debtor's Name],
Debtor.

Chapter [#] Case
XX-XXXXX

NOTICE OF AMENDMENT

(Cover Sheet for Amendments to Schedules & Statements and for Schedules Not Previously Filed*)

Amendment/Schedule Information (Check one)

- ☐ 1. Amendment to previously filed document.**
- ☐ 2. Schedule not previously filed.
- ☐ 3. Schedule of Post-Petition Debts (result of conversion; no fee due).

Creditor/Schedule Information (Check one)

- ☐ 1. No creditors are being added to or deleted from the initial list of creditors by this amendment/schedule.
- ☐ 2. Information regarding a creditor's address is being amended/changed (no fee due).
 - ☐ A mailing list in the format prescribed by the Clerk with the amended/changed address of the creditor is attached. (**Note: Do not repeat creditor information from a previously filed mailing list.**)
- ☐ 3. Creditors are being added by this amendment/schedule, AND
 - ☐ The \$26.00 amendment fee is attached for these additions, AND
 - ☐ A mailing list in the format prescribed by the Clerk with the complete names and addresses of the parties added is attached. (**Note: Do not repeat creditor information from a previously filed mailing list.**)
- ☐ 4. Creditors are being deleted by this amendment, AND
 - ☐ The \$26.00 amendment fee is attached for these deletions.
- ☐ 5. Schedules of creditors are being modified to change the amount of debt or classification of debt, AND
 - ☐ The \$26.00 amendment fee is attached for these modifications.

I certify that I have served all parties who are affected by this amendment/schedule with a copy thereof and a copy of the Notice of Bankruptcy Case Meeting of Creditors (the "341 Meeting Notice"), if applicable, and have served the case trustee, if any.

[Date]

[Signature of Debtor's Attorney or of Debtor if *pro se*]

I certify under penalty of perjury that I have read this Notice of Amendment and the attached schedules, lists, statements, etc., consisting of _____ sheets, numbered from 1 to _____ and that they are true and correct to the best of my knowledge, information, and belief.

[Date]

[Signature of Debtor]

[Date]

[Signature of Co-Debtor if Joint Case]

* If filed electronically, no additional copies are needed. However, if filed non-electronically, Vt. LBR 1002-1(c) requires an original plus one (1) copy for cases filed under Chapter 7, 12, or 13 of the Bankruptcy Code, and an original plus three (3) copies for cases filed under Chapter 9 or 11 of the Bankruptcy Code. Copies of this Notice of Amendment must be attached to each copy of the amended documents.

** If dollar amounts on amended schedules change the total for *any* schedule, then an amended Summary of Schedules should also be filed.

APPENDIX K: REFERENCE GUIDE FOR NOTICING APPLICATIONS AND MOTIONS

Appendix K: Reference Guide for Noticing Applications and Motions

Reference Guide for Noticing Applications and Motions

- Bankruptcy Motions
- Adversary Proceeding Motions

See Following Pages

APPENDIX K: REFERENCE GUIDE FOR NOTICING APPLICATIONS AND MOTIONS*
BANKRUPTCY MOTIONS

Motion or Application	Under Default Procedure			Under Conventional Procedure			Code or Rule Cited
	Days to Response Deadline	Response Period	Total Days to Hearing	Days to Response Deadline	Response Period **	Total Days to Hearing	
Abandon	Default procedure available for Trustees only.			12 (9)	3	15 (12)	11 U.S.C. § 554; Fed. R. Bankr. P. 6007(a)
Abandon (Compel Trustee)	15 (12)	8	23 (20)	12 (9)	3	15 (12)	Fed. R. Bankr. P. 6007(b)
Accelerate Chapter 11 Confirmation	Discretionary, no notice or hearing required.						Vt. LBR 9013-2
Accounting				12 (9)	3	15 (12)	
Adequate Protection				12 (9)	3	15 (12)	11 U.S.C. § 361-4
Adjournment	For good cause only. May be obtained without notice or hearing if all parties consent.						Vt. LBR 5071-1
Administrative Expenses	15 (12)	8	23 (20)	12 (9)	3	15 (12)	11 U.S.C. § 503(b)
Allow Claims				12 (9)	3	15 (12)	Vt. LBR 9013-2
Amend (Motion to)				12 (9)	3	15 (12)	Vt. LBR 9013-2
Appear <i>pro hac vice</i>	No notice or hearing required.						Vt. LBR 2090-1; USDC-VT LR 83.2(b)
Application (Generic)				12 (9)	3	15 (12)	Vt. LBR 9013-2
Appoint Examiner	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						Fed. R. Bankr. P 9006(f), 9014; Vt. LBR 9013-2
Appoint Trustee	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						Fed. R. Bankr. P. 9006(f), 9014; Vt. LBR 9013-2
Approve Compromise and Settlement	20	8	28	17	3	20	Fed. R. Bankr. P 2002, 9019
Assume/Reject	15 (12)	8	23 (20)	12 (9)	3	15 (12)	11 U.S.C. § 365
Avoid Lien	15 (12)	8	23 (20)	12 (9)	3	15 (12)	11 U.S.C. § 522(f)
Borrow	15 (12)	8	23 (20)	12 (9)	3	15 (12)	11 U.S.C. § 364(b), (c), (d)
Change Venue	15 (12)	8	23 (20)	12 (9)	3	15 (12)	28 U.S.C. § 1412
Compel***	15 (12)	8	23 (20)	12 (9)	3	15 (12)	11 U.S.C. § 542
Compensation (Application) in excess of \$1000	20	8	28	17	3	20	11 U.S.C. § 330, 331
Compensation (Application) less than \$1000	15 (12)	8	23 (20)	12 (9)	3	15 (12)	11 U.S.C. § 330, 331
Consolidate (Substantively)				12 (9)	3	15 (12)	Vt. LBR 9013-2

APPENDIX K: REFERENCE GUIDE FOR NOTICING APPLICATIONS AND MOTIONS*
BANKRUPTCY MOTIONS

Motion or Application	Under Default Procedure			Under Conventional Procedure			Code or Rule Cited
	Days to Response Deadline	Response Period	Total Days to Hearing	Days to Response Deadline	Response Period **	Total Days to Hearing	
Continue Hearing	Approval is for good cause only, without notice or hearing, but with consent of parties.						Vt. LBR 5071-1
Convert Case 7 to 11 (fee)	See: "Reference Guide for Conversions and Dismissals."						11 U.S.C. § 706; Vt. LBR App. I
Convert Case 7 to 12	See: "Reference Guide for Conversions and Dismissals."						11 U.S.C. § 706; Vt. LBR App. I
Convert Case 7 to 13	See: "Reference Guide for Conversions and Dismissals."						11 U.S.C. § 706; Vt. LBR App. I
Convert Case to 7 (fee)	See: "Reference Guide for Conversions and Dismissals."						11 U.S.C. § 706; Vt. LBR App. I
Deposit Funds into Court Registry	On application, no notice or hearing required.						
Determine Tax Liability				12 (9)	3	15 (12)	11 U.S.C. § 505
Dismiss Case	See: "Reference Guide for Conversions and Dismissals."						Fed. R. Bankr. P. 2002(a)(4); Vt. LBR App. I.
Dismiss Involuntary Petition	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						
Disqualification of Judge	No notice or hearing required.						28 U.S.C. § 455; Fed. R. Bankr. P. 5004
Employ (Application)	On application: no hearing required; on 15 days' notice to United States Trustee.						
Examination	15 (12)	8	23 (20)	12 (9)	3	15 (12)	Vt. LBR 2014-1(b)
Expedite Hearing	See: "How to File an Emergency Motion."						Fed. R. Bankr. P. 2004; Vt. LBR 9013-2; Vt. LBR App. B.
Extend Exclusivity Period				12 (9)	3	15 (12)	Vt. LBR 9013-2
Extend Plan Payments	15 (12)	8	23 (20)	12 (9)	3	15 (12)	Fed. R. Bankr. P. 2002(a)(5); Vt. LBR 9013-2
Extend Time	15 (12)	8	23 (20)	12 (9)	3	15 (12)	Vt. LBR 9013-2
Extend Time to File Schedules	No notice or hearing required; may require consents.						

APPENDIX K: REFERENCE GUIDE FOR NOTICING APPLICATIONS AND MOTIONS*
BANKRUPTCY MOTIONS

Motion or Application	Under Default Procedure			Under Conventional Procedure			Code or Rule Cited
	Days to Response Deadline	Response Period	Total Days to Hearing	Days to Response Deadline	Response Period **	Total Days to Hearing	
File Under Seal	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary. Documents to be filed under seal should not be filed electronically.						Vt. LBR 9013-2
Final Decree							
Hardship Discharge	15 (12)	8	23 (20)	12 (9)	3	15 (12)	Fed. R. Bankr. P. 3022
Joint Administration	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						11 U.S.C. §§ 1228(b), 1328(b); Vt. LBR 9013-2
Lease of Property	15 (12)	8	23 (20)	12 (9)	3	15 (12)	Fed. R. Bankr. P. 1015; Vt. LBR 1015-1, 9013-2
Leave to Appeal	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will forward to District Court.						11 U.S.C. § 363(b)(1); Vt. LBR 9013-2
Limit Notice	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						Fed. R. Bankr. P. 9007
Modify Plan (NOTE: Default Procedure for plan modifications not available in Chapter Quash	15 (12)	8	23 (20)	17	3	20	11 U.S.C. §§ 1229, 1329; Fed. R. Bankr. P. 2002, 3019; Vt. LBR 3015-4, 9013-2
Reaffirmation	See: "How to File an Emergency Motion" if matter is an emergency, otherwise total of 15 days for notice of hearing. Responses are due no later than 3 days before the hearing. Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						Vt. LBR 9013-2
Reconsider	Non-Routine: Court will set hearing if necessary.						Vt. LBR 9023-1, 9024-1
Redeem	15 (12)	8	23 (20)	12 (9)	3	15 (12)	Vt. LBR 6008-1.
Reinstate Case (prior to closing)	15 (12)	8	23 (20)	12 (9)	3	15 (12)	Fed. R. Bankr. P. 5010; Vt. LBR 9013-2

APPENDIX K: REFERENCE GUIDE FOR NOTICING APPLICATIONS AND MOTIONS*
BANKRUPTCY MOTIONS

Motion or Application	Under Default Procedure			Under Conventional Procedure			Code or Rule Cited
	Days to Response Deadline	Response Period	Total Days to Hearing	Days to Response Deadline	Response Period **	Total Days to Hearing	
Relief From Co-Debtor Stay	15 (12)	8	23 (20)	12 (9)	3	15 (12)	11 U.S.C. § 1301; Vt. LBR 9013-2
Relief From Stay (fee)	15 (12)	8	23 (20)	12 (9)	3	15 (12)	11 U.S.C. § 362(d); Vt. LBR 9013-2
Reopen Chapter 11 Case	15 (12)	8	23 (20)	12 (9)	3	15 (12)	Fed. R. Bankr. P. 5010; Vt. LBR 9013-2
Reopen Chapter 12 Case	15 (12)	8	23 (20)	12 (9)	3	15 (12)	Fed. R. Bankr. P. 5010; Vt. LBR 9013-2
Reopen Chapter 13 Case	15 (12)	8	23 (20)	12 (9)	3	15 (12)	Fed. R. Bankr. P. 5010; Vt. LBR 9013-2
Reopen Chapter 7 Case	15 (12)	8	23 (20)	12 (9)	3	15 (12)	Fed. R. Bankr. P. 5010; Vt. LBR 9013-2
Sanctions	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						28 U.S.C. § 1927; Fed. R. Bankr. P. 9011(c); Vt. LBR 9013-2
Sell	20	8	28	17	3	20	11 U.S.C. §363(b)(1); Vt. LBR 9013-2
Set Hearing	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						Vt. LBR 9013-2
Sever Case	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						Vt. LBR 9013-2
Shorten Time	No notice or hearing required; may require consents.						
Stay	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						
Stay Pending Appeal***	See: "Handling Emergencies in Vermont" if matter is an emergency, otherwise total of 15 days for notice of hearing. Responses are due no later than 3 days before the hearing.						
Strike	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						
Substitute Attorney*****	15 (12)	8	23 (20)	12 (9)	3	15 (12)	Vt. LBR 2091-1

APPENDIX K: REFERENCE GUIDE FOR NOTICING APPLICATIONS AND MOTIONS*
BANKRUPTCY MOTIONS

Motion or Application	Under Default Procedure			Under Conventional Procedure			Code or Rule Cited
	Days to Response Deadline	Response Period	Total Days to Hearing	Days to Response Deadline	Response Period **	Total Days to Hearing	
Transfer Case	15 (12)	8	23 (20)	12 (9)	3	15 (12)	28 U.S.C. § 1412
Turnover*** (Found only under Trustee menu)	15 (12)	8	23 (20)	12 (9)	3	15 (12)	11 U.S.C. § 542; Fed. R. Bankr. P. 7001
Use Cash Collateral****	15 (12)	8	23 (20)	12 (9)	3	15 (12)	11 U.S.C. §363(c)(2); Vt. LBR 4001-2, 9013-2
Vacate Order	Non-Routine: Court will set hearing if necessary. Where appropriate, court may process without waiting for response time (e.g., error or omission in an order).						
Wage Assignment Order	No notice or hearing required.						
Waive Appearance at 341 Meeting	No notice or hearing required, for good cause; with consent of trustee.						
Withdraw as Attorney *****				12 (9)	3	15 (12)	Vt. LBR 2091-1
Withdrawal of Reference (fee)	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will forward to U.S. District Court when response time has expired.						28 U.S.C. § 157

* **Note:** Within this Reference Guide (the "Noticing Reference Guide") any value within parentheses refers to minimum notice if service is personally, by fax or by e-mail. Values outside parentheses refer to minimum notice if service is via first class mail. See Vt. LBR 9013-2(d)(1). If any party is served by first class mail, the longer notice period is applicable.

** For time periods less than 8 days, count only business days. For time periods longer than 8 days, count calendar days.
See Fed. R. Bankr. P. 9006.

*** To compel the Trustee to abandon property, use the event "Abandon (Compel Trustee)".

**** Please refer to "How to File an Emergency Motion". See Vt. LBR App. B.

***** An attorney who has appeared as an attorney of record for a debtor may withdraw only upon order of the Court. No Order of Withdrawal will be issued without a hearing. An Order Allowing Substitution of Attorney may be issued without a hearing if a substitution of counsel agreement (signed by the debtor, the withdrawing attorney and the substituting attorney) is filed with the application for withdrawal.

APPENDIX K: REFERENCE GUIDE FOR NOTICING APPLICATIONS AND MOTIONS*
ADVERSARY PROCEEDING MOTIONS

Motion or Application	Under Default Procedure			Under Conventional Procedure			Code or Rule Cited
	Days to Response Deadline	Response Period	Total Days to Hearing	Days to Response Deadline	Response Period**	Total Days to Hearing	
Amend (Motion to)				12 (9)	3	15 (12)	Vt. LBR 9013-2
Appear pro hac vice	No notice or hearing required.						Vt. LBR 2090-1; USDC-VT LR 83.2(b)
Application (Generic)	No notice or hearing required. However, if application is to UST, then UST is given 15 days to respond (18 if served by mail).						Vt. LBR 9013-2
Approve Compromise and Settlement	20	8	28	17	3	20	Fed. R. Bankr. P. 2002, 9019
Compel				12 (9)	3	15 (12)	Vt. LBR 9013-2
Consolidate (Substantively)	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						Vt. LBR 1015-1, 9013-2
Consolidate for Trial	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						Vt. LBR 9013-2
Continue Hearing	Without hearing, for good cause only and with consent of parties in interest.						Vt. LBR 5071-1
Default Judgment (Application for Entry of Default and Entry of Judgment by Clerk)	No notice or hearing required.						Fed. R. Bankr. P. 7005; Vt. LBR 7055-1
Default Judgment (Application for Entry of Default and Motion for Judgment by Court)	If the party against whom entry of judgment by default is sought has appeared in the action or the Court determines that evidence is necessary in order to fix the amount due, compute damages or establish the truth of any averment, the Court shall set a hearing.						Fed. R. Bankr. P. 7005; Vt. LBR 7055-1
Defer Fee (Application)	No notice or hearing required.						
Dismiss Adversary Proceeding	If not stipulated, then will be treated as non-routine: Opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						Fed. R. Bankr. P. 7041
Dismiss Party	Non-Routine: opposing counsel has 10 days to respond, 13 if served by mail. Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						
Disqualification of Judge	No notice or hearing required.						

APPENDIX K: REFERENCE GUIDE FOR NOTICING APPLICATIONS AND MOTIONS*
ADVERSARY PROCEEDING MOTIONS

Motion or Application	Under Default Procedure			Under Conventional Procedure			Code or Rule Cited
	Days to Response Deadline	Response Period	Total Days to Hearing	Days to Response Deadline	Response Period**	Total Days to Hearing	
Expedite Hearing	See: "How to File an Emergency Motion."						Fed. R. Bankr. P. 2004; Vt. LBR 9013-2; Vt. LBR App. B.
Extend Time	15 (12)	8	23 (20)	12 (9)	3	15 (12)	Vt. LBR 9013-2.
Generic Motion				12 (9)	3	15 (12)	Vt. LBR 9013-2.
Intervene	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						Fed. R. Bankr. P 7024
Join	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						
More Definitive Statement	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						Fed. R. Bankr. P 7012
Preliminary Injunction	Refer to Handling Emergencies in Vermont if matter is an emergency, otherwise opposing counsel has 10 days to respond, 13 if served by mail. Court will set hearing if necessary.						
Protective Order	See: "How to File an Emergency Motion" (Vt. LBR App. B.) if matter is an emergency, otherwise opposing counsel has 10 days to respond (13 if served by mail). Court will set hearing if necessary.						
Quash	See: "How to File an Emergency Motion" (Vt. LBR App. B.) if matter is an emergency, otherwise opposing counsel has 10 days to respond (13 if served by mail). Court will set hearing if necessary.						
Remand	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						
Sanctions	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						28 U.S.C. § 1927; Fed. R. Bankr. P. 9011(c); Vt. LBR 9013-2
Set Hearing	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						
Sever Party	Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.						

APPENDIX K: REFERENCE GUIDE FOR NOTICING APPLICATIONS AND MOTIONS*
ADVERSARY PROCEEDING MOTIONS

Motion or Application	Under Default Procedure			Under Conventional Procedure		
	Days to Response Deadline	Response Period	Total Days to Hearing	Days to Response Deadline	Response Period**	Total Days to Hearing
Shorten Time						
	See: "How to File an Emergency Motion" (Vt. LBR App. B.) if matter is an emergency, otherwise opposing counsel has 10 days to respond (13 if served by mail). Court will set hearing if necessary.					
Stay Pending Appeal						
	See: "How to File an Emergency Motion" (Vt. LBR App. B.) if matter is an emergency, otherwise opposing counsel has 10 days to respond (13 if served by mail). Court will set hearing if necessary.					
Strike						
	Non-Routine: if filed within 20 days of service of pleading, opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Court will set hearing if necessary.					
Substitute Attorney***				12 (9)	3	15 (12)
Summary Judgment				Opposing counsel has 21 days to respond. Moving party has 10 days to reply to response. Opposing Counsel has 5 days to sur-reply.		
						Vt. LBR 2091-1 Fed. R. Bankr. P. 7056; Vt. LBR 7056-1
Transfer Adversary	15 (12)	8	23 (20)	12 (9)	3	15 (12)
Withdraw as Attorney ***				12 (9)	3	15 (12)
Withdrawal of Reference (fee)				Non-Routine: opposing counsel has 10 days to respond (13 if served by mail). Any reply memoranda must be filed within 5 days. Clerk will forward to U.S. District Court when response time has expired.		
						Vt. LBR 7056-1 Vt. LBR 2091-1 28 U.S.C. § 157

* **Note:** Within this Reference Guide (the "Noticing Reference Guide") any value within parentheses refers to minimum notice if service is personally, by fax or by e-mail. Values outside parentheses refer to minimum notice if service is via first class mail. See Vt. LBR 9013-2(d)(1). If any party is served by first class mail, the longer notice period is applicable.

** For time periods less than 8 days, count only business days. For time periods longer than 8 days count calendar days.
 See Fed. R. Bankr. P. 9006.

*** An attorney who has appeared as attorney of record for a debtor may withdraw only upon order of the Court. No Order of Withdrawal will be issued without a hearing. An Order Allowing a Substitution of Attorney may be issued without a hearing if a substitution of counsel agreement (signed by the debtor, the withdrawing attorney and the substituting attorney) is filed with the application for withdrawal.

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